

H. B. No. 33

37

By:



A BILL

TO BE ENTITLED

AN ACT providing for a "Texas Labor Code" by amending, revising, rearranging, modifying, superceding and supplementing existing laws now contained in Title 83 "Labor" of the Revised Civil Statutes of Texas, as amended, and certain specified provisions of the Penal Code of Texas; creating a Department of Labor and transferring to it duties and functions of the Bureau of Labor Statistics now provided by law, and providing further and additional duties and functions of the Department of Labor including a State Mediation Service, and a Labor Management Representation Election Service; re-enacting with amendments, Chapter 2, 4, 10, 13, 14, and 16 of said Title 83; repealing all laws in conflict, and providing severability.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Chapters 1, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15 and 16 of Title 83 "LABOR" of the Revised Civil Statutes of Texas, as amended, and all Articles contained in said Chapters, as said Articles are amended, be and the same are hereby revised, rearranged, modified, amended, superseded, and supplemented so as to read hereafter as follows:

TITLE 83- LABOR

CHAPTER ONE
GENERAL PROVISIONS

Art. 1.01. Short Title

This Act shall be known, and may be cited, as the "Texas Labor Code."

Art. 1.02. Effective date, construction, application and severability

(a) Effective date. The Code shall take effect and be in force on and after January 1, 1964.

(b) Applicability of Standard Rules of Construction. Unless specifically altered by this Act or unless the context requires otherwise, the provisions of Articles 10, 11, 12, 13, 14, 18, 19, 21, 22, 23, 25, 27, 28a, 29, 29a, 29c, Revised Civil Statutes of Texas, as amended, apply to this Act.

(c) Chapter and Article Headings. Division of this Code into Chapters, Articles, and Paragraphs and the headings given each is solely for convenience and shall have no legal effect. The headings are mere catch words designed to give some indication of the contents of the chapters and articles and paragraphs to which they are attached.

(d) No act done in any proceeding commenced and no action taken before this Code takes effect, and no accrued right, shall be impaired by the provisions of this Code. When a right is acquired, extinguished, or barred upon the expiration of prescribed period of time which has commenced to run by the provision of any statute in force before this Code takes effect, such provision

shall remain in force and be deemed a part of this Code with respect to such right. All things properly done under any previously existing statute prior to the taking effect of this Code shall be treated as valid.

(e) Severability. If any provision of this Code, or the applicability thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of the Code which can be given effect without the invalid provisions or application, and to this end the provisions of this Code are declared to be severable, and the Legislature hereby states that it would have enacted such portions of the Code which can lawfully be given effect regardless of the possible invalidity of other provisions of the Code.

Art. 1.03. Definitions generally applicable

When used in this Code, unless otherwise expressly defined for a particular purpose or unless the context plainly requires a different meaning:

(1) The term "person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

(2) The term "employer" includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly owned Government corporation, or any Federal Reserve Bank, or any State or political subdivision thereof, or any corporation or association operating a hospital, if no part of the net earning inures to the benefit of any private shareholder or individual, or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(3) The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the

purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(4) The term "labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment regardless of whether the disputants stand in the proximate relation of employer and employee.

CHAPTER TWO DEPARTMENT OF LABOR

Art. 2.01. Creation of the Department of Labor

There is hereby created a Department of Labor of the State of Texas, hereinafter designated as "the Department," in which is vested the enforcement of laws protecting workers in their employment and providing for the prevention and adjustment of labor disputes and rights and obligations of labor and management with respect thereto. The Department shall have its principal office and headquarters in the City of Austin, where all its records shall be kept.

Art. 2.02. Creation of the Labor Management Commission

Control of the Department is hereby vested in the Labor Management Commission, hereinafter designated as "the Commission," which Commission shall consist of three citizens of this State; one of whom shall be an employer of labor, another of whom shall be an employee in private employment which is covered by this Act, and third of whom shall be neither employer nor employee who shall represent the public generally and shall be Chairman of the Commission. The Governor shall, within thirty days after this Act shall take effect, appoint the members of the Commission by and with the advice and consent of the Senate of the State of Texas to hold office until December 31, 1963, and they shall constitute the Labor Management Commission; on the first day of January, 1964, the Governor shall appoint one member to hold office for two years, one for four years, and one for

six years, and at the end of every two-years thereafter, the Governor shall in like manner, by and with the advice and consent of the Senate of the State of Texas, appoint one citizen of Texas as the successor of the member of the Commission whose term shall expire in that year, to serve as such member for six years and until his successor is appointed and qualified. Two members of the Commission shall constitute a quorum. In the event of a vacancy occurring on said Commission, the Governor shall appoint a new member of the Commission to fill the said vacancy for such unexpired term, such appointment to be subject to the advice and consent of the Senate at the next session thereof. The members of the Commission shall be selected because of their peculiar qualifications fitting them for these positions but always within the eligibility requirements provided herein. In appointing members of the Commission, the following qualifications among others shall be observed: knowledge of laws pertaining to labor and management; experience in the field of labor management; honesty and integrity; education, training and executive ability. They shall serve without compensation, but shall be entitled to receive _____ (\$ _____) Dollars per day as an expense account and necessary mileage in the performance of their duties, such expense allowance shall not exceed _____ (\$ _____) Dollars annually for each member.

Art. 2.03. Organization of the Commission

The Commission shall meet at such time and places as it may provide for by rules or as the Chairman or any two members may call.

Art. 2.04. Duties and powers of the Commission

(1) The Commission shall formulate plans and policies for enforcement of the laws which come within its cognizance by the provisions of this Act, prevention and settlement of labor disputes, detection and apprehension of violators of such laws, and education of the citizens of the State in the promotion of occupational safety and industrial peace and related labor-

management matters. To the Commission is hereby transferred and vested the powers, duties and authority heretofore granted the Commissioner of Labor Statistics and the Bureau of Labor Statistics by the laws of the State of Texas in Title 83, Revised Civil Statutes of Texas, as amended, and elsewhere, except to the extent that such powers, duties and authority are repealed, modified, superseded or transferred and vested in another officer, board, commission or agency of the government of the State of Texas by this Act.

(2) It shall organize the Department and supervise its operation; it shall establish grades and positions for the Department, and for each grade and position it shall designate the authority and responsibility within the limits of this Act and the laws of the State of Texas. For each such grade and position so established, the Commission shall set standards of qualifications and shall fix prerequisites of training, education and experience, and shall make necessary rules and regulations for the appointment, promotion, reduction, suspension, and discharge of all employees after hearings before the said Commission; provided that any officer or employee of the Department who shall be discharged shall upon application to the Commission be entitled to and shall receive a public hearing before said Commission and the Commission shall determine whether such discharge shall be affirmed or set aside. All persons inducted into the service shall be considered on probation for the first two months and at any time during such period they may be discharged for just cause by the Administrator, with the advice and consent of the Commissioner and, if so discharged, such persons shall not be entitled to the public hearing hereinabove provided for.

(3) The Commission shall establish and proclaim rules and regulations for conduct of the work of the Department as it may deem necessary which are not inconsistent with the provisions of this Act or of the laws of this State.

(4) The Commission shall keep and maintain records of

all proceedings and official orders.

(5) The Commission shall biennially submit a report of its work to the Governor and the Legislature with its recommendations and those of the Labor-Management Administrator. A quarterly statement containing an itemized list of all moneys received, and from what sources received, and all moneys expended, and for what purposes expended, shall be prepared by the Administrator, sworn to and filed in the records of the Department and a copy thereof shall be sent to the Governor.

Art. 2.05. Expenditures of public funds; purposes

In addition to the authority now provided by law, the Department of Labor may expend public funds for the purposes of paying salaries, seasonal or contingent help, travel, transportation, automobile maintenance and repairs, maintenance and repairs of aircraft, gas, oil, tires, bond premiums, office and equipment rentals, storage, repairs, forage, duplicating supplies, printing, telephone, telegraph, postage, stationery, clothing and furnishings, express, freight, drayage, utilities, service materials, office supplies, books, drugs, medical, hospital and laboratory expense, and funeral expense when death results in line of duty, necessary expenses for training and for operating training schools, miscellaneous operating expenses, purchase of equipment, automobiles, aircraft, land and construction costs, and any and all necessary equipment, services and supplies for the enforcement of all laws under the supervision of the Department of Labor.

Art. 2.06. Administrator and directors; salaries

The Commission shall appoint a Labor-Management Administrator, herein designated as the "Administrator," who shall be a citizen of this State and who shall hold his position until removed by the Commission. The Commission shall also appoint such Directors to be in charge of such divisions of the Department and to perform such duties as may be designated by the Administrator with the advice and approval of the Commission. The Administrator and the Directors shall be selected on the basis of training,

experience and qualifications for said positions and shall have had at least five years of active experience in the labor management field. The Administrator and Directors shall draw annual salaries as fixed by the Legislature. The Administrator shall be directly responsible to the Commission for the conduct of all the affairs of the Department.

Art. 2.07. Duties and powers of Administrator

(1) The Administrator shall act with the Commission in an advisory capacity, without vote, and shall quarterly, annually, and biennially submit to the Commission detailed reports of the operation of the Department and statements of its revenues and expenditures.

(2) The Administrator shall be the executive officer of the Department and, subject to the approval of the Commission and to the provisions of this Act, he shall have authority to appoint, promote, demote, suspend and discharge all officers and employees of the Department. He shall issue and sign requisitions as provided by law for the purchase of supplies for the offices and officers of the Department and may make such rules and regulations, subject to approval of the Commission, as he deems necessary for control and operation of the Department in carrying out its duties, functions and responsibilities under the Code.

(3) The Administrator and each Director shall have power to issue subpoenas in the name of the Commission, to take testimony in all matters related to the duties required of them and the Department, but said testimony must be taken in the vicinity of the residence or office of the person testifying, unless taken in a formal hearing after due notice under the provisions of this Code.

Art. 2.08. Divisions of the Department

The Department shall be composed of five divisions; i.e.

- (a) Division of Labor Statistics
- (b) Division of Wages, Hours and Working Conditions
- (c) Division of Safety, Inspections and Permits

(d) Division of Labor Management Relations

(e) Division of Labor and Employment Agencies

and such other and further divisions as the Commission may deem necessary and may establish to carry out the purposes of this Act.

CHAPTER THREE LABOR STATISTICS

Art. 3.01. Creation of Division of Labor Statistics

There is hereby created within the Department a Division of Labor Statistics, herein called the "Division." The Division shall be under the direct supervision of a Director appointed by the Commission pursuant to Art. 2.05, subject always to the general supervision and control of the Administrator and the Commission. The personnel, property, equipment and records pertaining to labor statistics, now a part of the Bureau of Labor Statistics of the State of Texas, are hereby transferred to and placed under the jurisdiction of the Division of Labor Statistics hereby created.

Art. 3.02. Powers and duties of Director

The Director shall collect, systematize and present in biennial reports to the Governor and to the Legislature, statistical details relating to all aspects of labor in Texas, especially as bearing upon the commercial, social, educational, and sanitary conditions of employees and their families, the means of escape from dangers incident to their employment, the protection of life and health in the factories and other places of employment, the labor of women and children, and the number of hours of labor exacted of them, and, in general, all matters and things which affect or tend to affect the prosperity of the mechanical, manufacturing, building and construction, and productive industries of this State, and of the persons employed therein.

The Director shall also, as fully as may be done, collect reliable reports and information from each county, showing the amount and condition of the mechanical, mining and manufacturing interest therein, and all sites offering natural or acquired advantages for the location and operation of any of the different

branches of industry. He shall by correspondence with interested parties in other part of the United States and in foreign countries impart to them such information as may tend to increase the employment of labor and the products of such employment in Texas; in this respect he shall cooperate and coordinate efforts with the Industrial Commission. Except as hereinafter provided, he shall safely keep and deliver to his successor all records, papers, documents, correspondence and property pertaining to or coming into his hands by virtue of his office.

Art. 3.03. Report of Director

In each biennial report of the Department, the Director shall give a full statement of the business of the Division since the last preceding report, and such information as may be of value to the industrial interests and their employees, showing, among other things, the number of laborers and mechanics employed, the number of apprentices in each trade, with the nativity of such laborers, mechanics and apprentices, the wages earned, the savings from the same, the age and sex of the persons employed, the number and character of accidents, the sanitary conditions of places where persons are employed, the restrictions put upon apprentices when indentured, the proportion of married employees living in rented houses, with the average rental paid, the value of property owned by such employees, and a statement as to the progress made in schools in operation for the instruction of students in mechanical arts, and what systems have been found most practical.

Art. 3.04. Preservation of records

No report or return made to the Division under the provisions of this chapter and no schedule, record or document gathered or returned by its officers or employees shall be destroyed within four years of the collection or receipt thereof; provided, however, the Director may destroy any of its records, under such safeguards as will protect the confidential nature of such records, when it determines that such records no longer serve any legal, administrative, or other useful purpose and may likewise destroy

its records at any time after he has made authentic photographs, calligraphs, microfilms or other similar reproduction of such records.

Art. 3.05. Right of visitation

Upon his failure otherwise to obtain information in accordance with the provisions of this Act, the Director and his duly authorized representatives shall have the right and power to enter any factory, mill, workshop, mine, store, business house, public or private work, or other place of employment when the same is open and in operation, for the purpose of gathering facts and statistics such as are contemplated by this chapter, and for the purpose of examining into the methods of protecting employees from danger and the sanitary conditions in and around such building or place, of all of which a true and detailed record shall be made and returned to the Division.

Art. 3.06. To report violations

If the Director shall learn of any violation of the law with respect to employment of children, fire escapes, or the safety of employees or the preservation of health, or in any other way affecting employees, he shall at once give written notice of the facts to the appropriate enforcement officers.

CHAPTER FOUR
WAGES, HOURS AND WORKING CONDITIONS

Art. 4.01. Creation of Division of Wages, Hours and Working Conditions

There is hereby created within the Department a Division of Wages, Hours and Working Conditions, herein called the "Division." The Division shall be under the direct supervision of a Director appointed by the Commission pursuant to Art. 2.05, subject always to the general supervision and control of the Administrator and the Commission. The personnel, property, equipment and records pertaining to such matters, now a part of the Bureau of Labor Statistics of the State of Texas, are hereby transferred to and placed under jurisdiction of the Division of Wages, Hours and Working Conditions hereby created.

Art. 4.02. Powers and duties of Director

The Director shall inquire diligently for violations of this chapter and is empowered to prevent any employer or other person from engaging in any violation of this chapter; he shall institute prosecutions and see that the same are carried to final termination and shall generally see to enforcement of provisions of this chapter. In carrying out his powers and duties, the Director is authorized, upon approval by and in the name of the Commission, to promulgate and issue such rules and regulations as may be deemed reasonably necessary to carry out the purposes of this chapter.

Part A -- Payment of Wages

Art. 4.031. Pay days

Every person shall pay each of his employees the wages earned by him as often as semimonthly, and shall pay to a day not more than sixteen (16) days prior to the day of payment.

Art. 4.032. Payment upon demand

Any employee who is absent at the time fixed for payment, or who for any other reason is not paid at that time, shall be paid thereafter on six days' demand. Any employee leaving his employment or discharged therefrom shall be paid in full on six days' demand. Suit to recover such amount due and owing, plus reasonable attorney's fees, may be brought by the employees in any court of competent jurisdiction.

Art. 4.033. Penalty for failure to pay

Every person who wilfully fails or refuses to pay the wages of any employee at the time and in the manner provided in this statute shall forfeit to the State of Texas the sum of Fifty (\$50) Dollars for each and every such failure or refusal. Suits for penalties accruing under this section may also include the amount of wages due and owing the employee and shall be brought in any court of competent jurisdiction in the county in which the employee should have been paid, or where he is or was employed. Such suits shall be instituted at the direction of the Director by the Attorney General or, under his direction, or by the County or District Attorney for the county or district in which suit is

brought. The attorney bringing any such suit shall be entitled to Ten (\$10) Dollars of the penalty recovered as a fee and such fee shall be over and above the fees allowed to the county or district attorneys under the General Fee Act.

Part B -- Hours and prevailing rates on certain employment

Art. 4.041. Not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work, shall be paid to all laborers, workmen and mechanics employed by or on behalf of the State of Texas, or by or on behalf of any county, city and county, city, town, district or other political subdivision of the State, engaged in the construction of public works, exclusive of maintenance work. Laborers, workmen, and mechanics employed by contractors or subcontractors in the execution of any contract or contracts for public works with the State, or any officer or public body thereof, or in the execution of any contract or contracts for public works, with any county, city and county, city, town, district or other political subdivision of this State, or any officer or public body thereof, shall be deemed to be employed upon public works.

Art. 4.042. The public body awarding any contract for public work on behalf of the State, or on behalf of any county, city and county, city, town, district or other political subdivision thereof, or otherwise undertaking any public work, shall ascertain from the Director the general prevailing rate of per diem wages in the locality in which the work is to be performed for each craft or type of workman or mechanic needed to execute the contract, and shall specify in the call for bids for said contract, and in the contract itself, what the general prevailing rate of per diem wages in the said locality is for each craft or type of workman needed to execute the contract, also the prevailing rate for legal holiday and overtime work, and it shall be mandatory upon the contractor to whom the contract is awarded, and upon any subcontractor under him, to pay not less than the said specified rates to all laborers, workmen

brought. The attorney bringing any such suit shall be entitled to Ten (\$10) Dollars of the penalty recovered as a fee and such fee shall be over and above the fees allowed to the county or district attorneys under the General Fee Act.

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and mechanics employed by them in the execution of the contract. The contractor shall forfeit as a penalty to the State, county, city and county, city, town, district or other political subdivision on whose behalf the contract is made or awarded, Ten Dollars (\$10.00) for each laborer, workman or mechanic employed, for each calendar day, or portion thereof, such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under said contract, by him, or by any subcontractor under him, and the said public body awarding the contract shall cause to be inserted in the contract a stipulation to this effect. It shall be the duty of such public body awarding the contract, and its agents and officers, to take cognizance of complaints of all violations of the provisions of this Act committed in the course of the execution of the contract, and, when making payments to the contractor of moneys becoming due under said contract, to withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation and the terms of this Act; provided, however, that no sum shall be so withheld, retained or forfeited, except from the final payment, without a full investigation by the awarding body. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the said subcontractor's failure to comply with the terms of this Act, and if payment has already been made to him the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

Art. 4.043. The contractor and each subcontractor shall keep, or cause to be kept, an accurate record showing the names and occupations of all laborers, workmen and mechanics employed by him, in connection with the said public work, and showing also the actual per diem wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the public body awarding the contract, its officers and agents.

Art. 4.044. Any construction or repair work done under contract, and paid for in whole or in part out of public funds, other than work done directly by any public utility company pursuant to order of the Railroad Commission or other public authority, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds, shall be held to be "public works" within the meaning of this Act. The term "locality in which the work is performed" shall be held to mean the county, city and county, city, town, district or other political subdivision of this State in which the building, highway, road, excavation, or other structure, project, development or improvement is situated in all cases in which the contract is awarded by the State, or any public body thereof, and shall be held to mean the limits of the county, city and county, city, town, district or other political subdivision on whose behalf the contract is awarded in all other cases. The term "general prevailing rate of per diem wages" shall be the rate determined as such by the Director, whose decision in the matter shall be final. Provided, however, that nothing in this part shall be construed to prohibit payment of an amount that is more than the said general prevailing rate of wages.

Art. 4.045. Eight hours shall constitute a day's work for all laborers, workmen or mechanics who may be employed by or on behalf of the State of Texas, or by or on behalf of any county, municipality, or political subdivision of the State, county or municipality in any one calendar day, where such employment, contract or work is for the purpose of constructing, repairing or improving buildings, bridges, roads, highways, streams, levees, or other work of a similar character, requiring the service of laborers, workmen or mechanics. All contracts made by or on behalf of the State of Texas, or by or on behalf of any county, municipality or other legal or political subdivision of the State, with any corporation, person or association of persons for performance of any work, shall be deemed and considered as made upon

the basis of eight (8) hours constituting a day's work. The time consumed by the laborer in going to and returning from the place of work shall not be considered as part of the hours of work. It shall be unlawful for any corporation, person or association of persons having a contract with the State or any political subdivision thereof, to require or permit any such laborers, workmen, or mechanics to work more than eight (8) hours per calendar day in doing such work, except in cases of emergency, which may arise in times of war, or in cases where it may become necessary to work more than eight (8) hours per calendar day for the protection of property, human life or the necessity of housing inmates of public institutions in case of fire or destruction by the elements or in cases where the total number of hours per week required or permitted of any such laborer, workman or mechanic, engaged on work financed in whole or in part by the Federal Government or any agency thereof, does not exceed the number of hours per week allowed by any regulation of the Federal Government or any agency thereof. In such emergencies the laborers, workmen, or mechanics so employed and working to exceed eight (8) hours per calendar day shall be paid on the basis of eight (8) hours constituting a day's work.

Art. 4.046. Hours of certain patrolmen.

In all incorporated cities and towns however incorporated, having a population of fifty thousand inhabitants or more, according to the preceding Federal census, the patrolmen thereof, or those performing duties ordinarily performed by patrolmen, shall be required to serve on actual duty as patrolmen not longer than eight hours in every twenty-four hours of the day; provided that in case of riot or other emergency, such patrolmen shall perform such duty and for such time as the directing authority of the departments shall require.

Art. 4.047. Weekly working hours of state office employees.

(a) All state employees who are employed in the offices of State departments or institutions or agencies, and who are paid

on a full-time salary basis shall work forty (40) hours a week. Provided, however, that the administrative heads of agencies whose functions are such that certain services must be maintained on a twenty-four (24) hours per day basis are authorized to require that such employees engaged in performing such service work forty-eight (48) hours per week.

(b) Except for the restrictions in subsection (a), and except on legal holidays authorized by law, the office hours of State departments, institutions, and agencies shall be from 8:00 a.m. to 5:00 p.m. Mondays through Fridays, and these shall be the regular hours of work for all full-time employees; and headquarters office shall be open on each Saturday from 8:00 a.m. to 12:00 noon with sufficient personnel on duty to carry out any necessary business for the department, institution, or agency. Where the executive head deems it necessary or advisable, offices may also be kept open during other hours and on other days, and the time worked on such other days, including Saturday morning, shall count toward the forty (40) hours per week which are required under subsection (a). It is further provided that exceptions to the minimum length of the work week may be made by the operating head of a state agency to take care of any emergency that may exist; provided, nothing herein shall apply to persons employed on an hourly basis.

Art. 4.048. Duties of Director

The Director is empowered and authorized to investigate complaints of employees covered by Art. 4.046 and 4.047 that the provisions of same are not being observed or that they are being required to work contrary to or in violation of such provisions and, upon investigation, to take such corrective action as he may deem appropriate under the circumstances.

Part C -- Working Conditions

Art. 4.051. Temperature and humidity

In every factory, mill, workshop, mercantile establishment, laundry, or other establishment, adequate measures shall be

taken for securing and maintaining a reasonable, and as far as possible, an equable temperature consistent with a reasonable requirement of the manufacturing process. No unnecessary humidity which would jeopardize the health of employees shall be permitted. In every room, apartment, or building used as a factory, mill, workshop, mercantile establishment, laundry or other place of employment, sufficient air space shall be provided for every employee, and which in the judgment of the Director, or of his deputies and inspectors is sufficient for their health and welfare.

Art. 4.052. Odors and dust

All factories, mills, workshops, mercantile establishments, laundries and other establishments shall be kept free from gas or effluvia arising from any sewer, drain, privy or other nuisance on the premises; all poisonous or noxious gases arising from any process, and all dust which is injurious to the health of persons employed, which is created in the process of manufacturing within the above named establishment, shall be removed as far as practicable by ventilators or exhaust fans or other adequate devices.

Art. 4.053. Cleaning and wet floors

All decomposed, fetid or putrescent matter, and all refuse, waste and sweepings of any factor, mill, workshop, mercantile establishment, lanudry or other establishment shall be removed at least once each day and be disposed of in such manner as not to cause a nuisance. All cleaning, sweeping and dusting shall be done as far as possible outside of working hours, but if done during working hours, shall be done in such manner as to avoid so far as possible the raising of dust and noxious odors. In all establishments where any process is carried on which makes the floors wet, the floors shall be constructed and maintained with due regard for the health of the employees, and gratings or dry standing room shall be provided wherever practicable, at points wherever employees are regularly stationed, and adequate means shall be provided for drainage and for preventing leakage or seepage to lower floors.

Art. 4.054. Exits and hand rails

All doors used by employees as entrances to, or exists from factories, mills, workshops, mercantile establishments, laundries or other establishments of a height of two stories or over, shall open outward, and shall be so constructed as to be easily and immediately opened from within in case of fire or other emergencies. Proper and substantial hand rails shall be provided on all stairways, and lights shall be kept burning at all main stairs, stair landings and elevator shafts in the absence of sufficient natural light.

Art. 5.055. Toilets

Every factor, mill, workshop, mercantile establishment, laundry or other establishment, shall be provided with a sufficient number of water closets, earth closets or privies, and such water closets, earth closets or privies shall be supplied in the proportion of one to every twenty-five male persons and one to every twenty female persons, and whenever both male and female persons are employed, said water closets, earth closets or privies shall be provided separate and apart for the use of each sex, and such water closets, earth closets, or privies shall be constructed in an approved manner and properly enclosed, and at all times kept in a clean and sanitary condition, and effectively disinfected and ventilated, and shall at all times during operation of such establishment be kept properly lighted. In case there be more than one shift of not more than eight hours each of employees, the average number of persons in the establishment at any one time should be used in determining the number of toilets required.

Art. 4.056. Immoral influences

It shall be unlawful for the owner, manager, superintendent or other person in control or management of any factory, mill, workshop, mercantile establishment, laundry or other establishment where five or more persons are employed, all or part of whom are females, to permit in such place of employment any influence, practices or conditions calculated to injuriously affect

the morals of such female employees.

Art. 4.057. Order to correct conditions

The Director and his duly authorized representatives shall have the right and power to enter any place of employment when the same is open and in operation for the purpose of making inspections and enforcing the provisions of this part; and he is hereby empowered, upon finding any violation of this law by reason of unsanitary conditions such as endanger the health of the employees therein employed, or of neglect to remove and prevent fumes and gases or odors injurious to employees, or by reason of the failure or refusal to comply with any requirement of this law, or by reason of the inadequacy or insufficiency of any plan, method, practice or device employed in assumed compliance with any of the requirements of this law, to pass upon and to make a written finding as to the failure or refusal to comply with any requirement of this law, or as to the adequacy or sufficiency of any practice, plan or method used in or about any place mentioned in this law in supposed compliance with any of the requirements of this law, and, thereupon, he may issue a written order to the owner, manager, superintendent, or other person in control or management of such place or establishment, for the correction of any condition caused or permitted in or about such place or establishment in violation of any of the requirements of this law, or of any condition, practice, plan, or method used therein or thereabouts in supposed compliance with any requirement of this law, but which are found to be inadequate or insufficient, in any respect, to comply therewith, and shall state in such order how such conditions, practices, plans or methods, in any case, shall be corrected and the time within which the same shall be corrected, a reasonable time being given in such order therefor. One copy of such order shall be delivered to the owner, manager, superintendent or other person in control or management of such place or establishment, and one copy thereof shall be filed in the office of the Department. Such findings and orders shall be prima facie valid, reasonable and

just, and shall be conclusive unless attacked and set aside in the manner provided in the succeeding article. Upon the failure or refusal of the owner, manager, superintendent, or other person in control or management of such place or establishment, to comply with such order within the time therein specified, unless the same shall have been attacked and suspended or set aside as provided for in the succeeding article, the Administrator or the Director shall have full authority and power to close such place or establishment, or any part of it that may be in such unsanitary or dangerous condition or immoral influences in violation of any requirement of this law or of such order, until such time as such condition, practice or method shall have been corrected.

Art. 4.058. Suit to set order aside

The owner or owners, manager, superintendent, or other person in control or management, of any place or establishment covered by this law, and directly affected by any finding or order provided for in the preceding article, may, within fifteen days from the date of the delivery to him or them of a copy of any such order as provided for in the preceding article, file a petition setting forth the particular cause or causes of objection to such order and findings in a court of competent jurisdiction against the Administrator. Said action shall have precedence over all other causes of a different nature, except such causes as are provided for in the statutes relating to the Railroad Commission, and shall be tried and determined as other civil causes in said court. If the court be in session at the time such cause of action arises, the suit may be filed during such term and stand ready for trial after ten days' notice. Either party may appeal, but shall not have the right to sue out of writ of error from the trial court. Said appeal shall at once be returnable to the proper appellate court at either of its terms, and shall have precedent in such appellate court over other causes of a different nature, except as above provided for. In any trial under this article the burden shall be upon the plaintiff to show that the findings and order complained of are illegal, unreasonable, or unjust to it or them.

Part D -- Female Employees

Art. 4.061. Hours of work for female employees

(a) Factories, mines, mills, etc.

No female shall be employed in any factory, mine, mill, workshop, mechanical or mercantile establishment, hotel, restaurant, rooming house, theater, moving picture show, barber shop, beauty shop, road side drink and/or food vending establishment, telegraph, telephone or other office, express or transportation company, or any State institution, or any other establishment, institution or enterprise where females are employed, for more than nine (9) hours in any one calendar day, nor more than fifty-four (54) hours in any one calendar week.

(b) Laundry and cleaning establishments

No female shall be employed in any laundry or cleaning and pressing establishment for more than fifty-four (54) hours in one calendar week; the hours of such employment to be so arranged as to permit the employment of such female at any time so that she shall not work more than a maximum of eleven (11) hours during the twenty-four hours period of one day. If such female is employed for more than nine (9) hours in any one day she shall receive pay at the rate of double her regular pay for such time as she is employed for more than nine (9) hours per day.

(c) Cotton, woolen or worsted goods workers

No female shall be employed in any factory engaged in the manufacture of cotton, woolen or worsted goods or articles of merchandise manufactured out of cotton goods for more than ten (10) hours in any one calendar day, nor more than sixty (60) hours in any one calendar week. If such female is employed for more than nine (9) hours in any one day she shall receive pay at the rate of double her regular pay for such time as she may be employed for more than nine (9) hours per day.

Art. 4.062. Seats for female employees

Every employer owning or operating any factory, mine, mill, workshop, mechanical or mercantile establishment, laundry,

hotel, restaurant or rooming house, theater or moving picture show, barber shop, beauty shop, telegraph or telephone company, or other office, express or transportation company; the superintendent of any State institution or any other establishment, institution or enterprise where females are employed as provided in the preceding article, shall provide and furnish suitable seats, to be used by such employees when not engaged in the active duties of their employment and shall give notice to all such employees by posting a notice in a conspicuous place on the premises of such employment, in letters not less than one inch in height, that all such employees will be permitted to use such seats when not so engaged.

Art. 4.063. Exceptions as to certain employments.

The provisions of Articles 4.061 and 4.062 shall not apply to:

(1) Female employees employed in a bona fide executive, administrative, professional, or outside sales capacity; or

(2) Female employees employed for the performance of clerical, pharmaceutical or technical work or duties in an office, laboratory or drafting room including, but not limited to, the operation of bookkeeping, stenographic, clerical, laboratory and engineering machines and equipment; or

(3) Female employees of any mercantile establishments, or telephone and telegraph companies in rural districts, and in cities and towns or villages of less than three thousand (3,000) inhabitants as shown by the last preceding Federal Census; or

(4) Female superintendents, matrons and nurses and attendants employed by, in and about such orphans homes as are charitable institutions not run for profit, and not operated by the state; or

(5) Female employees who are engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables; or

(6) Female employees of banks, provided, however, that

no female shall be employed in any bank for more than fifty-four (54) hours in any one calendar week, nor to exceed twelve (12) hours in any one day.

Art. 4.064. Extraordinary emergencies.

In case of extraordinary emergencies, such as great public calamities, or where it becomes necessary for the protection of human life or property, longer hours may be worked; but for such time not less than two times the regular rate at which such female is employed shall be paid to such female with her consent. Unless otherwise provided herein, any female employee who works more than forty (40) hours per week shall be entitled to receive from the employer pay at a rate not less than two times the regular rate for which such female is employed for all hours in excess of nine (9) hours per day, provided the employee actually works more than forty (40) hours per week.

Art. 4.065. Exceptions during war or national emergencies.

In addition to the foregoing exemptions, in time of war and/or when the President of the United States proclaims a state of national emergency to exist, female workers may be employed not exceeding ten (10) hours per day provided the Director finds that such hours of employment are not injurious to the health or morals of female employees, or working such hours does not add to the hazards of their occupations and such hours of employment are in the public interests.

Art. 4.066. Application, hearing, orders, etc.

(a) An employer, or one-third (1/3) the female employees of an employer may apply to the Director for a hearing under the terms of this section and it shall be the duty of the Director, on the filing of the application, to designate a date for a hearing not later than thirty (30) days after the date of the receipt of the application; and he shall within five (5) days from the date of receipt of such application, set a date for a hearing, and notify such applying employer or employees of such date; but for good cause shown by employer or employees, the Director may

postpone such hearing for as much as five (5) days, and he shall designate the place of such hearing, which may be anywhere in the State of Texas, but at a place convenient to the employer, employees, and the Director or any representative duly authorized by him for such purpose; and the Director or his representative shall hold such hearing at the time and place.

(b) When any employer shall apply for a hearing, such employer shall give notice of the application to the employees affected by posting notices in the plant, yard and/or place of business of such employer at places readily accessible to the affected employees and in such manner that the employees in the usual course of their employment shall have an opportunity to read and inspect such notices.

(c) In time of war the Director may, based upon private investigation and without notice or hearing, if he finds that the employment of female employees in any designated industry for ten (10) hours per day will not injure the health or morals and/or add to the hazards of their occupation, and that such hours of labor are in the public interest, file his findings as required herein, and make an order granting an exemption; and the employer affected shall be exempt for thirty (30)^{days}/from the provisions of this section, during which time if further exemption is desired by employers affected, notice and hearing as provided herein shall be had as though no temporary exemption had previously been in effect.

(d) The employer's notice to employees required herein shall state that the application for a hearing is made, and the date which has been set for the hearing, and if an emergency exemption under the foregoing provisions of this section is in effect insofar as the employer's business, trade, or industry is concerned, it shall state the date a hearing shall be had to extend the exemption for a period of six (6) months. The affidavit of an employer or an officer of an employer that such notice has been given shall be prima facie evidence that the notice provisions

of this section have been complied with. Failure to give such notice shall be sufficient cause to reject such application.

(e) On the date designated for a hearing, the Director, or his authorized representative, shall hold a hearing under such rules as the Commission may make, at which anyone interested may offer information; and if the Director finds as a matter of fact from the evidence presented that the employment of female workers in the business, trade, and/or industries concerned, for ten (10) hours per day is not injurious to the health or morals of the females employed therein and/or does not add to the hazards of their occupation, and that ten (10) hours per day of labor is in the public interest, he shall make written findings of such facts and file such with the Administrator and draw an order granting such employer affected exemption from the provisions of this section for a period of six (6) months, which order shall be made within five (5) days after the conclusion of the hearing and shall be filed with the Administrator. Such orders of the Director during wartime shall be extended at the end of six (6) months for a like period of six (6) months without further notice or hearing, unless prior to such automatic extension, a protest is filed with the Director, notice of which protest is furnished to the employer, by a sufficient number of employees to lead the Director to believe that there is no longer a necessity for such exemption. If he finds the facts adversely to the applicant he will so state in his findings and no order will issue, but the applicant may appeal such findings to the Administrator whose decision shall be final.

Art. 4.067. Failure to comply

Wilful failure of the employer to comply with any law or laws as to payment of wages of employees shall be sufficient grounds for the Director to cancel such exemption; and any employer violating any such law after notice from the Director, shall not plead such exemption as a defense to any prosecution for violation of this law arising after such notice.

Art. 4.068. Punishment

Any employer, overseer, superintendent, foreman, or other agent of any employer who shall permit any female to work in any place mentioned in Article 4.061 more than the number of hours provided therein in any one day of twenty-four hours in any one calendar week or who shall violate any of the other provisions or requirements of this section in any respect, or who having furnished and provided suitable seats as provided for in Article 4.062 shall by intimidation, instruction, threats, or in any manner, prevent such female from sitting thereon, when not attending the duties of her position, shall be fined not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars. Each day of such violation and each calendar week of such violation, and each employee permitted to work in said places more than the hours so specified in this section, and every other violation of the provisions of this section, shall be considered a separate offense. However, no employer having an exemption as provided for herein shall be prosecuted so long as such exemption is valid and in effect.

Part E -- Child Labor

Art. 4.071. Children under fifteen

Any person who shall employ any child under the age of fifteen years to labor in or about any factory, mill, workshop, laundry, or in messenger service in towns and cities of more than fifteen thousand population, according to the preceding Federal Census, shall be fined not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars, or be imprisoned in jail for not more than sixty (60) days.

Art. 4.072. Children under seventeen

Any person who shall employ any child under the age of seventeen years to labor in any mine, quarry or place where explosives are used, or who, having control or employment of such child, shall send or cause to be sent, or who shall permit any person to send any such child under the age of seventeen years to

any disorderly house, bawdy house, assignation house, or place of amusement conducted for immoral purposes, the character or reputation of which could have been ascertained upon reasonable inquiry on the part of such person, shall be fined not less than Fifty (\$50.00) Dollar nor more than Five Hundred (\$500.00) Dollars, or be imprisoned in jail not to exceed sixty (60) days.

Art. 4.073. Messengers

It shall be the duty of every person doing a messenger of delivery business, or whose employees may be required to deliver any message, package, merchandise or other thing, having in his employ or under his control, any child under the age of seventeen years, before sending any such child on such errand, to first ascertain if such child is being sent or is to be sent to any place prohibited by Art. 4.072. Failure or refusal to comply with this article shall subject any such person having control of such child to the penalties provided in Art. 4.072.

Art. 4.074. Limitation of hours

Any person having in his employ or under his control any child under the age of fifteen years, who shall require or permit any such child to work or to be on duty for more than eight hours in any one calendar day, or for more than forty-eight hours in any one week, or who shall cause or permit such child to work between the hours of 10:00 p.m. and 5:00 a.m. shall be fined not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars, or be imprisoned in jail not to exceed sixty (60) days.

Art. 4.075. Permit for child to work

Upon application being made to the county judge of any county in which any child over the age of twelve (12) years shall reside, the earnings of which child are necessary for the support of itself, its mother when widowed, or in needy circumstances, or invalid father, or of other children younger than the child for whom the permit is sought, the said county judge may upon the

affidavit of such child or its parents or guardian, that the child for whom the permit is sought is over twelve (12) years of age, that the said child has completed the fifth grade in a public school or its equivalent, and that it shall not be employed in or around any mill, factor, workshop, or other place where dangerous machinery is used, nor in any mine, quarry or other place where explosives are used, or where the moral or physical condition of the child is liable to be injured, and that the earnings of such child are necessary for the support of such invalid parent, widowed mother or mother in needy circumstances, or of younger children, and that such support cannot be obtained in any other manner, and that suitable employment has been obtained for such child, which affidavit shall be accompanied by the certificate of a licensed physician showing that such child is physically able to perform the work or labor for which the permit is sought, issue a permit for such child to enter such employment. Every person, firm or corporation employing any such child between the ages of twelve (12) years and fifteen (15) years shall post in a conspicuous place where such child is employed, the permit issued by the county judge; provided that no permit shall be issued for a longer period than twelve (12) months, but may be renewed from time to time upon satisfactory evidence being produced that the conditions under which the former permit was issued still exist, and that no physical or moral injury has resulted to such child by reason of its employment. In every case where a permit is sought for any child between the ages of twelve (12) years and fifteen (15) years, the parent, guardian or other person in charge or control of such child shall appear before the county judge in person with such child for whom a permit is sought before such permit shall be issued. Nothing in this part shall prevent the working of school children of any age from June 1 to September 1 of each year except that they shall not be permitted to work in factory, mill, workshop, and the places mentioned in Article 4.072 and this article, or in any other place with respect to which the Director finds,

upon investigation and hearing; that such employment is detrimental to the best interests of such children and the public welfare of the community; nor shall their hours of labor conflict with Article 4.074.

Art. 4.076. Right of visitation

The Director and his duly authorized representatives shall have free access during working hours to all places where children or minors are employed, and any owner, manager, superintendent, foreman or other person in authority, who shall refuse to admit, or in any way hinder the Director or his duly authorized representatives from entering or remaining in such place, or from collecting information with respect to employment of children, as provided in this part, shall be fined not less than Twenty-five (\$25.00) Dollars nor more than One Hundred (\$100.00) Dollars.

Art. 4.077. Exemptions.

Unless the Director shall upon investigation and hearing that such employment is detrimental to the best interests of the children involved and the public welfare of the community; nothing in this part shall be construed to prohibit employment of nurses, maids, yard servants or others for private homes and families, regardless of the ages, nor apply to those engaged in agricultural pursuits; and nothing in this part shall apply to employment of children for farm labor or to hours which children may work on farms, nor shall anything in this part be construed as affecting employment of children on farms, ranches, dairies or other agricultural pursuits, nor shall any person be guilty under this part when the child employed is permitted to work under the provisions of this Part.

CHAPTER FIVE
SAFETY, INSPECTIONS AND PERMITS

Art. 5.01. Creation of Division of Safety, Inspections and Permits

There is hereby created within the Department a Division of Safety, Inspections and Permits herein called the "Division."

The Division shall be under the direct supervision of a Director appointed by the Commission pursuant to Art. 2.05, subject always to the general supervision and control of the Administrator and the Commission. The personnel, property, equipment and records pertaining to such matters, now a part of the Bureau of Labor Statistics of the State of Texas, are hereby transferred to and placed under jurisdiction of the Division of Safety, Inspection and Permits hereby created.

Art. 5.02. Powers and duties of Director

The Director shall inquire diligently for violations of this Chapter and is empowered to prevent any employer or other person from engaging in any violation of this Chapter; he shall institute prosecutions and see that the same are carried to final termination and shall generally see to the enforcement of provisions of this Chapter. In carrying out his powers and duties, the Director is authorized, upon approval by and in the name of the Commission to promulgate and issue such rules and regulations relating to safety and safe places of employment as may be deemed reasonably necessary to carry out the purposes of this Chapter.

Part A -- Steam Boiler Inspection

Art. 5.031. Definitions. The following terms as used in this Act shall be construed as follows:

"Director" as used herein shall mean the Director of Division of Safety, Inspections and Permits of Department of Labor of the State of Texas;

"Inspector" as used herein shall mean the inspector of steam boilers appointed under the provisions of this part;

"Deputy" as used herein shall mean any deputy inspector of boilers appointed under the provisions of this part;

"Boiler" as used herein shall mean any vessel used for generating steam for power or heating purposes;

"Low Pressure Heating Boiler" as used herein shall mean a boiler operated at pressures not exceeding 15 lbs. per sq. in. gauge steam or at pressures not exceeding 160 lbs. per sq. in. gauge and temperatures not exceeding 250⁰ F. for water;

"Owner or User" as used herein shall mean any person, firm or corporation owning or operating, or in charge of or in control of any boiler herein defined;

"Safety device" as used herein shall mean any appurtenance attached to any boiler for the purpose of diminishing the danger of accidents;

"Code of Rules" as used herein shall mean the standard code of rules promulgated and adopted by the Director under the provisions of this part;

Unless otherwise specified, where the term "boiler" is used herein, it shall include "Low Pressure Heating Boilers."

Art. 5.032. Registration of boilers; certificate of operation; injunction against operation of unsafe boiler

No boiler or low pressure heating boiler, unless otherwise specifically exempted in this part shall be operated within the State of Texas unless such boiler has been registered with the Division of Safety, Inspections and Permits and there shall have been issued a Certificate of Operation for such boiler, as hereinafter provided for, and such Certificate of Operation shall remain in full force and effect until expiration unless cancelled for cause by the Director; such Certificate of Operation shall be placed under glass in a conspicuous place on or near the boiler for which it is issued; and no prosecution shall be maintained where the issuance of or the renewal for such Certificate of Operation shall have been requested and shall remain unacted upon; provided, however, if the operation of such boiler without such Certificate of Operation shall constitute a serious menace to the life and safety of any person or persons in or about the premises, the Director or the inspector of boilers or any deputy inspector as hereinafter provided for, shall apply to the District Court in a suit brought by either the Attorney General of the State, or any District or County Attorney, in the county in which such boiler is located, for an injunction restraining the operation of said boiler

until the unsafe condition restraining its use shall be corrected and a Certificate of Operation issued. In all such cases it shall not be necessary for the attorney bringing the suit to verify the pleadings or for the State to execute a bond as a condition precedent to the issuing of any injunction or restraining order hereunder. The affidavit of the Director that no application for or no Certificate of Operation exists for such boiler, and the affidavit of any inspector or deputy inspector that its operation constitutes a menace to the life and safety of any person or persons in or about the premises, shall be sufficient proof to warrant the immediate granting of a temporary restraining order.

Art. 5.033. Exemptions from part

The following boilers and low pressure heating boilers are exempt from the provisions of this part:

1. Boilers and low pressure heating boilers under Federal control and stationary boilers at round houses, pumping stations and depots of railway companies under the supervision or inspection of the Superintendent of Motive Power of such railway companies;
2. Low pressure heating boilers on which pressure does not exceed 15 lbs. per. sq. in. gauge steam or at pressures not exceeding 160 lbs. per sq. in. gauge and temperatures not exceeding 250° F. for water, except where such boilers are located in public or private schools, colleges, universities or county courthouses;
3. Automobile boilers and boilers on road motor vehicles;
4. Boilers and low pressure heating boilers used exclusively for agricultural purposes;
5. Low pressure heating boilers for heating in buildings occupied solely for residence purposes with accommodations not to exceed four (4) families;
6. Boilers and low pressure heating boilers used for cotton gins.

Art. 5.034. Inspections; ordering repairs to unsafe boiler; hearing; temporary certificate

The Director shall cause to be inspected internally and externally not less frequently than once each twelve (12) months each stationary steam boiler subject to the provisions of this part. Each portable steam boiler subject to the provisions of this part shall be inspected externally each time it is moved to a new location, provided that an internal inspection shall be made of each such boiler at least once each twelve (12) months. If such boilers referred to herein are found, upon inspection, to be in a safe condition for operation, a Certificate of Operation shall be issued by the Director for its operation for a period not longer than one year from the date of such inspection. If any inspection authorized underunder shall show the inspected boiler to be in an unsafe or dangerous condition, the boiler inspector or any deputy may issue a preliminary order requiring such repairs and alterations to be made to such boiler as may be necessary to render it safe for use, and may also order the use of such boiler discontinued until such repairs and alterations are made or such dangerous and unsafe conditions are remedied. Unless such preliminary order be complied with by the owner or user, a hearing before the Director shall be allowed, upon written request, at which the owner or user, making the request, shall have opportunity to appear and show cause why he should not comply with said preliminary order. If it shall thereafter appear to the Director that such boiler is unsafe and that the requirements contained in said preliminary order should be complied with, or that other things should be done to make said boiler safe, the Director may order or confirm the withholding of the Certificate of Operation for said boiler and may make such requirements as he deems proper for the repair or alteration of said boiler or the correction of such dangerous and unsafe conditions. The inspector in his discretion may issue a temporary Certificate of Operation for not to exceed thirty (30) days, pending the making of replacements or repairs. Nothing in this Article shall be construed to limit the authority of the Director as set forth in Article 5.036.

"Certificate of Operation" used in this Article shall mean the "Certificate of Operation" referred to in Article 5.032.

Art. 5.035. Insurance companies to file inspection reports; boilers inspected by insurance companies exempt from other inspections; certificate of operation

Every insurance company insuring boilers in this State shall, within thirty (30) days after inspecting any steam boiler, file a duplicate report of such inspection with the Director showing the date of such inspection together with the name of the person making such inspection, and such report shall show fully the condition and location of such boiler at the time such inspection was made. Such report shall also state when the policy of insurance was issued by the insurance company on said boiler and the date of expiration of such policy of insurance.

The owner or user of every boiler inspected by an inspector for an insurance company authorized to do business in this State on which such insurance company has issued a policy of insurance after inspection thereof, shall be exempt from other inspections and inspection fees under the provisions of this part; provided nothing in this Article shall prevent the Director from authorizing the inspection of any insured boiler at any reasonable time when, in the opinion of the Director, such insured boiler may be in an unsafe condition, provided the Director shall contact the insurance company carrying insurance on said boiler and that the inspector for the insurance company carrying such insurance and the inspector or deputy inspector shall jointly and together inspect the boiler, within twenty (20) days, for which inspection no additional charge shall be made as set forth in Article 5.0312. The Director is authorized and has authority to issue a Certificate of Operation to the owner or user of all boilers subject to inspection under this part, and the owner or user of an insured boiler shall pay the sum of Three Dollars (\$3.00) for each Certificate of Operation issued, which said fee shall be and is absorbed by the internal and external inspection fee authorized in Article

5.0312. Every insurance company shall notify the Director in writing of the cancellation or expiration of every policy of insurance issued by it with reference to boilers in this State, within twenty (20) days after the expiration or cancellation of said policy, giving the cause or reason for such cancellation or expiration. Such notice of cancellation or expiration shall show the date of the policy and the date when the cancellation or expiration has or will become effective.

Art. 5.036. Director to promulgate rules and regulations; exchange of information

The Director is hereby authorized and empowered to promulgate and enforce a code of rules and regulations in keeping with standard usage, for the construction, installation, use, maintenance and operation of steam boilers and appurtenances thereof; including the boiler room; and to require such devices and safeguards and other reasonable means and methods to insure safe operation of steam boilers, including the registration thereof with the Division.

The Director may exchange information and experience data with the department or other administrative authorities of states having boiler inspection divisions or departments in assembling data for the promulgation of rules and regulations authorized under the provisions of this part.

Before any rule, regulation or order is promulgated, adopted, enforced, amended, modified or repealed by the Director, a public hearing shall be held by him, and not less than ten (10) days before such hearing notice thereof shall be published in at least three (3) newspapers published and having general circulation in the State of Texas, such newspapers to be selected by the Director. After the adoption of rules, regulations and orders by the Director, a complete copy of same shall be published in at least three (3) newspapers, as in the notice of the hearing prior to their adoption, or two (2) different days not more than ten (10) days apart, and within thirty (30) days after the adoption of such

rules, regulations and orders; provided that in lieu of publishing in newspapers the rules, regulations and orders by the Director, as stated above, the Director may publish and circulate said rules, regulations and orders or the repeal, modification or amendment of such rule, regulation or order in such form or manner as he may determine; and such rules, regulations and orders shall become effective within ten (10) days after date of notice of adoption thereof or final publication, or at such later time as the Director may, in the rules, regulations and orders, determine. The Director is hereby authorized and empowered, in case of extreme emergency, to promulgate and enforce temporary rules, regulations and orders as he may deem necessary, without publishing the same as hereinabove directed; provided, however, that when such temporary rules, regulations or orders are adopted the same shall not be effective for a period of more than twenty (20) days and no criminal prosecution, as hereinafter provided, shall be had until the provisions of Article 5.0316 have been complied with.

Art. 5.037. Party aggrieved by rule or regulation; procedure; hearing; modification of rules

When any interested person shall deem himself aggrieved by any fundamental rule, regulation or order promulgated by the Director, he shall notify the Director of such grievance by formal notice in writing, whereupon the Director shall give consideration of such grievance and may modify, change, alter or amend same upon his own motion; upon failure or refusal of the Director, within ten (10) days, to change, alter or modify such fundamental rule, regulation or order, the Director shall, upon written application for hearing, cause the same to be held within five (5) days thereafter, at which the person complaining shall have opportunity to show cause, if any, why such fundamental rule, regulation or order complained of should be set aside, altered, amended or repealed.

Art. 5.038. Inspector, appointment and qualification; deputy inspectors

Within thirty (30) days after the passage of this Act

the Director shall appoint a suitable person to be inspector of steam boilers for the State of Texas. Said inspector of steam boilers shall be a resident citizen of Texas for at least five (5) years next preceding to the time of his appointment and shall have had, at the time of such appointment, not less than five (5) years practical experience with steam boilers as a steam engineer, boilermaker or boiler inspector and by examination enable him to judge the safety of boilers for use, and who is neither directly nor indirectly interested in the manufacture, ownership or agency of steam boilers or their appurtenances. It shall be the duty of the Director to appoint one (1) or more deputy inspectors as needed with like qualifications of the inspector of steam boilers, and such clerical assistants as may be necessary to carry out the provisions of this Act.

Art. 5.039. Salaries and expenses

The salary of the inspector of steam boilers shall not exceed Three Thousand Dollars (\$3,000) per annum and the salary of each deputy inspector shall not exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, and in addition thereto all inspectors shall be allowed their actual expenses incurred in the performance of their official duties, and for such equipment as may be deemed necessary by the Director. All expenses incident to carrying out the provisions of this part shall be paid out of the funds in the State Treasury to the credit of the General Revenue Fund on vouchers or warrants issued and signed by the Director and the Comptroller of Public Accounts. The Director may incur such expense for clerical assistants and office supplies as may be necessary, said sums to be paid by the State Treasurer on warrants drawn by the Comptroller of Public Accounts.

Art. 5.0310. Persons authorized to inspect; commission from Director showing qualifications; power of Director

The Director may cause the inspection provided for in this part to be made either by the inspector of boilers or any deputy inspector, or by any qualified boiler inspector employed by

any county, or city and county, or city, or any insurance company, provided that such persons making inspections (other than the inspector of boilers or deputy inspectors regularly employed by the Division) shall first obtain from the Director a commission as inspector showing his qualifications to make such inspections. The Director is vested with full power and authority to determine the qualifications of any applicant or other person seeking a commission as inspector, by examination. At the discretion of the Director he may accept, after proper investigation by him, the commission issued by an inspector by any other state having an examination equal to that of the State of Texas. The Director may rescind at any time, upon good cause being shown therefor, any commission as inspector issued by him to any person, and he may at any time, upon good cause being shown therefor and after notice and opportunity for hearing thereon, revoke any Certificate of Operation issued for any steam boiler within this State.

Art. 5.0311. Reports of inspections

Every inspector receiving a commission as inspector shall forward to the Director on forms furnished the inspector by the Director, within thirty (30) days after an inspection is made, a report of such inspection, in default of which the commission as inspector may be cancelled by the Director.

Art. 5.0312. Fees for inspections

The Director shall fix and collect fees for the inspection of steam boilers covered by this part, which exceed thirty (30) inches in diameter, external and internal inspection not to exceed Fifteen Dollars (\$15) in each twelve-month period; and for boilers exceeding twenty-four (24) inches in diameter and not exceeding thirty (30) inches in diameter, Ten Dollars (\$10) for each complete inspection in each twelve-month period; and boilers not exceeding twenty-four (24) inches in diameter, Five Dollars (\$5) for each complete inspection in each twelve-month period. Provided that, when a boiler is found unfit for further use

no Certificate of Inspection shall be issued and the use of such condemned boiler may be prohibited. Provided further that the Director or any of his employees shall not have authority to prescribe the make, brand or kind of boilers to buy or purchase. And provided that when any inspector or employee of the Division tears down a boiler in a cleaning and pressing establishment said inspector or employee shall assist the owner to repair and assemble said boiler as it was before it was dismantled, and if he fails to assist said owner said fee shall not be paid. Such fees must be paid by the owner or user before the issuance of a Certificate of Operation for the boiler inspected. No fees shall be charged the owner or user by the Director when the inspection herein provided for has been made by an inspector holding a commission as inspector from said Director if the holder of such commission as inspector is employed by any county, or city and county, or city, or insurance company except the charge fixed for Certificate of Operation in Article 5.035. All fees collected by the Director under this Act shall be paid into the State Treasury to the credit of the General Revenue Fund.

Art. 5.0313. Penalties for violations by persons in charge of steam boilers

Any person, firm corporation, or agent thereof, owning or having the custody, management, use or operation of any steam boiler in this State, who shall violate any provision of this part, or who violates any rule, regulation or order promulgated by authority hereof by the Director or any regularly employed inspector authorized to enforce any provision or any rule, regulation or order authorized herein, or any person, firm, corporation, or agent thereof coming within any provision of this Act, or any rule, regulation or order authorized herein, who shall fail or refuse to comply therewith, shall be deemed guilty of a misdemeanor and upon conviction therefor shall be subject to a fine of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200), or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment.

Art. 5.0314. Violations by operators of factories, mills, mines, stores, or business houses, misdemeanors

Any owner, manager, superintendent or other person in charge or in control of any factory, mill, workshop, mine, store, business house, public or private work, or the lessee or operator of same, or the owner or lessee of any mineral estate in land, or any other place where a steam boiler subject to inspection hereunder is located, who shall refuse to allow any official or employee of the Division to enter the same and remain thereon or therein for such time as is reasonably necessary, or who shall hinder any such official or employee in any way, or who shall in any way prevent or deter him from carrying out the provisions of this part shall be deemed guilty of a misdemeanor and upon conviction shall be fined not to exceed One Hundred Dollars (\$100) or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment.

Art. 5.0315. Notice of violation of act or rule or regulation prerequisite to criminal prosecution

Whenever there shall have been adopted, after notice and hearing as provided for under this part, any rule, regulation or order, no criminal action shall be maintained against any person involving the violation of any provision of such rule, regulation or order, until the Director shall have given notice of such rule, regulation or order by publishing a complete copy of same in three (3) newspapers published and having general circulation in the State of Texas, such newspapers to be selected by the Director; once each day for two (2) consecutive days; on and after the fifteenth calendar day following the date of the last publication, such rule, regulation, and order shall be effective and enforceable in any criminal action brought pursuant to this part. No criminal action shall be maintained against any person involving the violation of any provision or any amendment or modification of any rule, regulation or order of the Director until and unless the

said Director shall have promulgated such amendment or modification after its adoption by publishing a complete copy of such amended rule, regulation or order in three (3) newspapers published and having general circulation in the State of Texas once each day for two (2) consecutive days; on and after the fifteenth calendar day following the date of the last publication, such amendment or modification of such rule, regulation or order shall become effective and enforceable in any criminal action brought pursuant to this part; provided that in lieu of the publishing in newspapers of rules, regulations, orders, amendments and modifications, as stated above, the Director may publish and circulate said rules, regulations, orders, amendments or modifications in such form or manner as he may determine.

Art. 5.0316. Affidavit of Director stating terms of order and publication thereof prima facie evidence

An affidavit under the Seal of the Department executed by the Director or the inspector of boilers or any deputy inspector, setting forth the terms of any order of the Director and that it has been adopted, promulgated and published, and was in effect at any date during any period specified in such affidavit, shall be prima facie evidence of all such facts, and such affidavit shall be admitted in evidence in any action, civil or criminal, involving such order and the publication thereof without further proof of such promulgation, adoption or publication and without further proof of its contents.

Art. 5.0317. Disposition of funds; general revenue fund

The funds collected under the provisions of this Act shall be paid into the State Treasury to the credit of the General Revenue Fund.

Part B -- Protection of Workmen on Buildings

Art. 5.041. To prevent workmen from falling

Any building three or more stories in height, in the course of construction or repair, shall have the joists, beams or girders of each and every floor below the floor level where any

is being done, or about to be done, covered with planking laid close together, said planking to be of not less than one and one-half inches of thickness in buildings that have steel framework, and what is commonly known as one-inch plank in all others where joists are set on two foot centers or less, to protect the workmen engaged in the erection or construction of such buildings from falling through joists, girders, and from falling planks, bricks, rivets, tools or other substances, whereby life and limb are endangered. Where any scaffolding is placed on the outside of any of said buildings, over any public street or alley where persons are in the habit of passing, then said scaffolding shall be so constructed as to prevent any material, tools or other things from falling off and endangering the life of passersby. Such flooring shall not be removed until the same is replaced by a permanent flooring in such building.

Art. 5.042. To inclose elevators and shafts.

If elevators, elevating machines or hod hoisting apparatus are used within a building in the course of construction, for the purpose of lifting materials to be used in such construction, the contractor or owners, or the agents of the owners, shall cause the shafts or openings in each floor to be inclosed or fenced in on all sides, two sides of which must be at least six feet, and two sides where material is taken off or on shall be protected by automatic safety gates.

Art. 5.043. Duty of general contractors

The general contractor having charge of the erection and construction of such building shall provide for the flooring as herein required, and make such arrangements as may be necessary with the subcontractor in order that the provisions of this article may be carried out.

Art. 5.044. Duty of owner

The owner, or the agent of the owner of such building, shall see that the general contractor or subcontractors carry out the provisions of this article.

Art. 5.045. Owner to see to flooring

If the general contractor or subcontractor of such building fails to provide for the flooring of such buildings as herein provided, then the owner or the agent of the owner of such building shall see that the provisions of this article are carried out.

Art. 5.045. Right of visitation

The Director and his duly authorized representatives shall have free access during working hours to all such buildings described in this part for the purpose of making inspections and enforcing the provisions of this part, and any owner, manager, superintendent, foreman or other person in authority, who shall refuse to admits, or in any way hinder the Director or his duly authorized representative from entering or remaining in such place, shall be fined not less than Twenty-five (\$25) Dollars nor more than One Hundred (\$100) Dollars.

Art. 5.047. Order to correct conditions

Should the Director or his duly authorized representative find upon investigation and hearing that the provisions of this part are being violated, he shall be empowered to issue an order to the owner, general contractor, or other person who is failing or refusing to comply with such provisions, pointing out wherein said person is not complying with the provisions of this part and what acts shall be required to effectuate compliance; and so long as said condition exists the owner, general contractor, or other person to whom said order is directed shall be under a duty to all workmen employed on said building to protect them against the dangers conclusively presumed to be created and existing by reason of said condition and such owner, general contractor or other person shall not be entitled and shall be precluded to assert as defenses in any suit brought by a workman injured because of said condition that the workman was contributorily negligent or voluntarily exposed himself to risk.

Part C -- Stevedores

Art. 5.051. "Contracting stevedore"

A contracting stevedore, within the meaning of this part, is any person, firm or association of persons, or corporation that contracts with any ship, agent, owners, masters, managers or captains of vessels, or with any other person or corporation, for the purpose of loading or unloading, or of having loaded or unloaded any vessel, ship or water craft.

Art. 5.052. Bond

Each contracting stevedore shall make bond in the sum of five thousand dollars, with two or more good and sufficient sureties, who are residents of this State, or with any surety company authorized to transact business in this State, payable to the Director and to his successor in office, as trustees for all persons who may become entitled to the benefits of this law; conditioned that said contracting stevedore will promptly on Saturday of each week pay each laborer his wages for labor performed in loading and unloading any such ship, vessel or water craft according to the scale of wages agreed upon, and that all agreements entered into with each of said laborers in respect to the loading and unloading of such water craft, will be faithfully and truly performed. Such bond shall be approved by the Director and by him shall be filed and recorded.

Art. 5.053. Suits on bond

Suits may be maintained upon such bond by any person to whom wages are due and unpaid for such labor as is hereinbefore mentioned. The same may be sued upon until the full amount thereof is exhausted, or suits sufficient to exhaust the bond are pending, and when so exhausted, said contracting stevedore shall make and file a new bond in amount and conditioned as provided for the first.

Art. 5.054. License

Said contracting stevedore shall, before beginning such business, file written application to the Director for a

license to pursue the occupation of a contracting stevedore in the county or counties named therein. On approval of the bond and payment of an occupation tax of Five Dollars (\$5.00) the Director shall issue a license to pursue said occupation, the license fee to be paid into the General Revenue Fund of the State.

Art. 5.055. Bond and license

Said contracting stevedore shall be required to execute a new bond and to obtain a new license at the expiration of every year from the issuance of the former license. If during the period before the expiration of his license, the contracting stevedore desires to pursue his occupation in any county not listed in his license, he shall first apply to the Director for approval of an amendment to his license and bond to include such new county or counties before undertaking to pursue his occupation therein.

Art. 5.056. Stevedore unlawfully pursuing occupation

Any contracting stevedore, as that term is defined by the laws of this State, who shall engage in business as such without first obtaining the license and executing the bond required by the statutes of this State, shall be fined not less than one hundred nor more than five hundred dollars for each day he shall pursue such occupation or business without thus qualifying, and any member of a firm or association or any manager of a corporation who comes within the meaning of a contracting stevedore who shall thus offend is amenable to prosecution.

CHAPTER SIX
LABOR MANAGEMENT RELATIONS

Art. 6.01. Creation of Division of Labor Management Relations

There is hereby created within the Department a Division of Labor Management Relations, herein called the "Division." The Division shall be under the direct supervision of a Director appointed by the Commission pursuant to Art. 2.05, subject always to the general supervision and control of the Administrator and the Commission.

Art. 6.02. Powers and duties of Director

The Director is hereby empowered and authorized, with the advice and approval of the Administrator and Commission, to organize and staff the Division and to delegate such responsibilities and powers as it deemed necessary to carry out the purposes of this Chapter and he may, upon approval by and in the name of the Commission, promulgate and issue such rules and regulations as may be deemed reasonably necessary to carry out the purposes of this Chapter.

Part A -- Mediation of Labor Disputes

Art. 6.031. Declaration of policy; creation of Service

It is hereby declared to be the public policy of the State of Texas and the purpose and policy of this Part and Chapter to encourage practices fundamental to amicable adjustment of labor disputes. ~~To~~ effectuate this public policy and the policy and purpose of this Part, there is hereby created within the Division, the State Mediation Service, herein called the "Service." The Service shall be under the immediate direction and control of the Director of Division of Labor Management Relations. The personnel, property, equipment and records and powers, duties and functions pertaining to such matters now a part of the Industrial Commission of the State of Texas as originally created by Act 1920, 36th Legis. 4th C.S. p. 19 (codified as Articles 5183-5190, R.C.S. of Texas, 1925) are hereby transferred to and placed under jurisdiction of the Service hereby created; provided that such transfer shall not be construed to abolish the Industrial Commission as established and constituted by Acts 1959, 56th Leg. p. 702, ch. 322, nor to deprive it of those duties and functions authorized by Acts 1957, 55th Leg., p. 782, ch. 319 §1, as amended Acts 1959, 56th Leg., p. 431, ch. 193 §5.

Art. 6.032. Appointment and compensation of mediators

In addition to other duties conferred by law and elsewhere in this Chapter, the Director is authorized and empowered to appoint and fix the compensation of such specially qualified

persons to serve as mediators, and to appoint on a per diem basis such other persons to serve on fact-finding boards, all as may be necessary to carry out the functions of the Service. Members of fact-finding boards shall be compensated at the rate of twenty-five (\$25) dollars for each day they actually serve on such board and shall be reimbursed for all reasonable travel and other expenses incurred by them pursuant to such service.

Art. 6.033. Duties and functions of Service

It shall be the duty of the Service, in order to mitigate burdens and obstructions in intrastate commerce and to protect the health and welfare of the people of Texas by encouraging practices fundamental to amicable adjustment of industrial controversies, to investigate the causes of such controversies and to assist the parties to effect voluntary adjustment and settlement of the same.

Art. 6.034. Invoking services

The Service may proffer its services in any industrial controversy which substantially affects intrastate commerce and the health and welfare of the people of Texas, either upon its own initiative, upon the request of one or more of the parties to the controversy, or upon the direction of the Governor of the State of Texas. When the authority of the Service is invoked, such agent or board as the Director may designate, shall proceed forthwith to the site of the industrial controversy, or to such other place as may be reasonable and appropriate, and use its best efforts to bring the parties to agreement for voluntary adjustment and settlement of the controversy.

Art. 6.035. Hearings and reports

If the Service is unable to bring the parties to agreement within a reasonable time, it shall hold an open and public hearing to hear testimony and receive evidence concerning the reasons and causes of the controversy. Within a reasonable time after the close of the hearing, the Service shall make a full report to the parties, the Governor and the Legislature, with its recommendations

as to reasonable steps necessary to adjust and settle the controversy. During the hearing, if feasible, and after making its report, the Service shall continue its best efforts to bring the parties to agreement; provided, however, at no time shall the parties to the controversy be compelled by the Service or any other governmental authority to accept the recommendations or any part thereof. All hearings held by the Service shall be open to the public and to the press and all reports and recommendations shall be available to the public and to the press.

Part B -- Discrimination in Employment

Art. 6.041. Discrimination prohibited

Each of the following acts shall constitute discrimination against persons seeking employment and they are hereby declared to be illegal and are hereby prohibited:

(a) Where any employer shall blacklist, prevent, or attempt to prevent, by word, printing, sign, list or other means, directly or indirectly, any discharged employee, or any employee who may have voluntarily left said employer's services, from obtaining employment with any other employer, except by truthfully stating in writing, on request of such former employee or other employer to whom such former employee has applied for employment, the reason why such employee was discharged, and why his relationship to such employer ceased.

(b) Where any employer shall, by any means, directly or indirectly, communicate to any other employer any information in regard to a person who may seek employment of such employer, and fails to give such person in regard to whom the communication may be made, within ten days after demand therefor, a complete copy of such communication, if in writing, and a true statement thereof if by sign or other means not in writing, and the names and addresses of all employers to whom said communication shall have been made; provided that if such information is furnished at the request of a person other than the employee, a copy of the information so furnished, shall be mailed to such employee at his last known address.

(c) Where any employer shall have discharged an employee and such employee demands a statement in writing of the cause of his discharge, and such employer fails to furnish a true statement of the same to such discharged employee, within ten days after such demand, or where any employer shall fail, within ten days after written demand for the same, to furnish to any employee voluntarily leaving the service of such employer, a statement in writing that such employee did leave such service voluntarily, or where any employer doing business within this state, shall fail to show in any statement under the provisions of this part the number of years and months during which such employee was in the service of the said employer, in each and every capacity or position in which he was employed, and whether his services were satisfactory in each such capacity or not, or where any such employer shall fail within ten days after written demand for the same to furnish to any such employee a true copy of a statement originally given to such employee for his use in case he shall have lost or is otherwise deprived of the use of the said original statement.

(d) Where any employer shall have received any request, notice or communication, either in writing or otherwise, from any person or employer, preventing, or calculated to prevent, the employment of a person seeking employment, and shall fail to furnish to such person seeking employment, within ten days after a demand in writing therefor, a true statement of such request, notice or communication, and, if in writing, a true copy of same, and, if otherwise that in writing, a true statement thereof, and a true interpretation of its meaning, and the names and addresses of the persons or employer furnishing the same.

(e) Where any employer discharging an employee, shall have failed to give such employee a true statement of the causes of his discharge, within ten days after a demand in writing therefor, and shall thereafter furnish any other person or employer any statement or communication in regard to such discharge, unless at the request of the discharged employee.

(f) Where any employer shall discriminate against any person seeking employment on account of his having participated in a strike, or on account of his membership in a labor union.

(g) Where any employer shall give any information or communication in regard to a person seeking employment having participated in any strike, unless such person violated the law during his participation on such strike, or in connection therewith, and unless such information is given in compliance with paragraph (a) of this article.

(h) Where any person is denied employment on account of membership or nonmembership in a labor union.

(i) Where there is enforced against any person any contract which requires or prescribes that employees or applicants for employment in order to work for an employer shall or shall not be or remain members of a labor union; it is hereby declared that any such provisions of any such contract shall be null and void and against public policy of this state.

(j) Where any employer or person places or causes to be placed the name of any discharged employee, or of any employee who has voluntarily left the service of any employer on any book or list, or publishes it in any newspaper, periodical, letter, or circular, with the intent and for the purpose of preventing such employee from securing employment of any kind with any other employer, either in a public or private capacity.

Art. 6.042. Prevention of discrimination

The Director is empowered to investigate any charge of discrimination and if, upon such investigation, he has reason to believe that such charge is true, he shall, on behalf of the Commission, petition any court of competent jurisdiction having venue of the parties for appropriate injunctive relief to prevent such discrimination and the court shall have jurisdiction to grant such injunctive relief as it deems just and proper; and the Texas Rules of Civil Procedure shall apply to such proceedings thereby instituted.

Art. 6.043. Liability for discrimination

(a) Any person or employee injured or damaged by any act of discrimination shall have a cause of action against the employer or person committing said act and may file suit for damages and other relief in any court of competent jurisdiction to recover his damages and obtain other relief together with his costs and a reasonable attorney's fee.

(b) Any foreign corporation which engages in any act of discrimination is hereby denied the right, and is prohibited from doing business in this State; and it shall be the duty of the Director to call upon the Attorney General to institute suit to enforce this provision, and it shall be the duty of the Attorney General or under his direction or of the district or county attorney to enforce this provision by injunction or other proceedings in the district court of Travis County, Texas.

(c) Any employer or person who shall in any manner engage in any act of discrimination shall, for each offense, forfeit and pay a penalty of One Thousand (\$1,000) Dollars, which may be recovered in the name of the State of Texas, in any county where the offense was committed or where the offender resides, or in Travis County; and it shall be the duty of the Director to call upon the Attorney General to institute suit for such forfeiture, and it shall be the duty of the Attorney General or under his direction or of the appropriate district or county attorney to institute suit for such forfeiture and other appropriate relief.

Art. 6.044. Prima facie evidence of agency

In all actions brought under this Part, evidence that any person has acted as the agent of an employer or other person in the transaction of his business in this State shall be received as prima facie proof that his act in the name, behalf or interest of such employer or person of which he was acting as the agent, was the act of the employer or person.

Nothing in this Part shall be construed to prohibit any employer or person from giving, on application from a discharged employee or from any other employer or person, a written truthful

statement of the reason for such discharge; provided a true and correct copy of such written truthful statement is furnished the discharged employee. Said written truthful statement of the reason for such discharge, when so made and given, shall never be used as the cause of an action for libel, either civil or criminal, against the employer or person making and giving it.

Part C -- Labor Management Representation Elections

Art. 6.051. Declaration of policy and purpose

In the full exercise of its police power, it is hereby declared to be the public policy of the State of Texas and the purpose of this Part, in order to mitigate burdens and obstructions in intrastate commerce and to protect the health and welfare of the people of Texas, to prescribe the legitimate rights of both employees and employers in their collective bargaining relations, to provide orderly and peaceful procedures for preventing the interference either by employers or by labor organizations with the legitimate rights of the other, to promote the practice and procedure of collective bargaining, and to protect the exercise by employees of full freedom of association, self-organization and designation of collective bargaining representatives of their own choosing.

Art. 6.052. Definitions.

When used in this Chapter:

(a) The term "person" includes one or more individuals, employers, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

(b) The term "employer" includes any person acting as an agent of an employer, directly or indirectly, and any group or association of employers.

(c) The term "employee" includes any employee, and shall not be limited to the employees of a particular employer, unless this Part explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute and who has not obtained

any other regular and substantially equivalent employment, but shall not include any individual employed only for the duration of a labor dispute, or any individual having the status of an independent contractor, or any individual employed as a supervisor, or any individual employed by any other person who is not an employer as herein defined.

(d) The term "labor organization" means any organization, group, union, lodge, local, branch or subordinate organization of any union of working men, incorporated or unincorporated, organized and existing for the purpose of protecting themselves in their personal work, personal labor, and personal service in their respective pursuits and employments, by dealing with employers concerning grievances, industrial controversies, wages, rates of pay, hours of employment, or other conditions of work.

(e) The term "bargaining unit" means the group of employees appropriate for purposes of collective bargaining in respect to wages, rates of pay, hours of employment or other conditions of work and may be an employer unit, an association of employers unit, a craft unit, a plant unit, or subdivision thereof, depending upon such factors as the organizations structure of the employer's business, the historical bargaining pattern of the employer or in the type of business involved, functional coherence and interdependence of operations and similarity of conditions of employment of the employees involved.

(f) The term "Director" means the Director of Division of Labor Management Relations of the Department of Labor and any agency or agent designated by him to exercise the powers and duties conferred upon him in this Act.

Art. 6.053. Rights, duties and obligations

(a) Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through labor organizations of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have

the right to refrain from any or all of such activities.

(b) No person shall interfere with, restrain or coerce, or discriminate in regard to hire or tenure of employment or any term or condition of employment against, employees in the exercise of the rights guaranteed in subsection (a) of this article.

(c) It shall be the duty of every labor organization certified by the Director as the exclusive collective bargaining representative to bargain collectively, in good faith, with the employer of the employees in the bargaining unit.

(d) It shall be the duty of every employer to bargain collectively, in good faith, with the exclusive collective bargaining representative designated or selected by employees in the bargaining unit.

Art. 6.054. Election duties of Director

(a) In addition to other duties conferred by law and elsewhere in this Chapter, whenever a petition shall have been filed, by the employer, a substantial number of the employees, or a labor organization involved alleging that a request for recognition as exclusive collective bargaining representative has been made by the labor organization and that the employer has failed or refused to grant such recognition, the Director shall forthwith investigate the matter, and, if he has reasonable cause to believe that a question concerning the majority representation of the labor organization in the bargaining unit exists, shall conduct a hearing upon reasonable notice to the parties concerned, unless the parties agree that no hearing is necessary.

(b) Whether by hearing provided in subsection (a) of this Article, or by agreement of the parties, if the Director finds:

- (i) that a question concerning the majority representation of the labor organization exists, and
- (ii) that the employees are in a bargaining unit, and
- (iii) the person filing such petition has deposited a twenty-five (\$25) dollar election fee.

he shall conduct an immediate election by secret ballot among the employees in the bargaining unit employed during the pay period which includes the time the request for recognition was made by the labor organization, and immediately certify, in the name of and on behalf of the Commission, the results thereof; provided that no election shall be conducted in any bargaining unit within which a valid election shall have been held in the preceding twelve-month period.

(c) The labor organization designated by a majority of the employees in the bargaining unit, or selected by secret ballot by a majority of employees voting in an election, shall be the exclusive collective bargaining representative of all employees in a bargaining unit for the purpose of collective bargaining in respect to wages, rates of pay, hours of employment, or other conditions of employment.

Art. 6.055. Enforcement and prevention of violations

(a) Any person against whom an adverse determination is made by the Director pursuant to Article 6.054 may obtain a judicial review of any such adverse determination; provided that no determination of the Director shall become final until the expiration of a period of ten days after the date on which the Director certifies the results of an election, if one is held, or dismisses the petition therefor without conducting an election. In any case, the determination of the Director shall be upheld by the court if supported by the whole record made before the Director.

(b) In addition to other remedies and causes of action conferred by law, any labor organization and any employer damaged or injured by an act in violation of this Act is given right of action and access to any district court of competent jurisdiction, in accordance with jurisdictional and venue statutes of Texas, to redress such damage or injury, including injunctive relief; provided that no temporary restraining order or temporary injunction order shall issue unless the party obtaining the same shall, before issuance of such order, execute and file with the Clerk a bond to the adverse party, with two or more good and sufficient

sureties, to be approved by the clerk of the Court, in the sum fixed by the Court sufficient to recompense those enjoined for all loss, expense, or damage caused by erroneous or wrongful issuance of such order, including all reasonable costs, including a reasonable attorney's fee, and expense of defense against the order, conditioned that the applying party will abide by the decision which may be made in the cause and that he will pay all sums of money and costs that may be adjudged against him if the order shall be dissolved in whole or in part.

Art. 6.056. Laws repealed

By the passage of this Act the Legislature intends to provide a uniform system of regulation of the subject matter of the Act; therefore, all laws and parts of laws covering the same subject matter contained in this Act, including all laws and parts of laws in conflict herewith, including SB 45, Acts 1955, 54th Leg., ch. 387, p. 1029, are hereby repealed and it is expressly declared that the provisions of this Act are not cumulative of any similar provisions in other laws.

CHAPTER SEVEN
LABOR AND EMPLOYMENT AGENCIES

Art. 7.01. Creation of Division of Labor and Employment Agencies

There is hereby created within the Department a Division of Labor and Employment Agencies, herein called the "Division." The Division shall be under the direct supervision of a Director appointed by the Commission pursuant to Art. 2.05, subject always to the general supervision and control of the Administrator and the Commission. The personnel, property, equipment and records pertaining to labor and employment agencies, now a part of the Bureau of Labor Statistics of the State of Texas, are hereby transferred to and placed under the jurisdiction of the Division of Labor and Employment Agencies hereby created.

Art. 7.02. Powers and duties of Director

The Director is hereby empowered to administer and enforce the Labor Agency Law and the Private Employment Agency Law re-enacted by this Chapter and to do all things therein required and

he is empowered, upon approval by and in the name of the Commission, to promulgate and issue rules and regulations reasonably necessary to carry out the purposes of this Chapter. He is also empowered to make the investigation and recommendation required by Art. 2.01, Section A, of the "Texas Non-Profit Corporation Act." In each biennial report of the Department, the Director shall give a full statement of the business of the Division since the last preceding report and he shall make such reports from time to time as the Commission may require.

Part A -- Labor Agency Law

Art. 7.031. Definitions

When used in this Part:

(a) The term "person" means an individual, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver.

(b) "Fee" means anything of value including money or other valuable consideration or services or the promise of any of the foregoing received by a Labor Agent or Agency from or on behalf of any person seeking employment, or employers seeking employees, in payment for any service, either directly or indirectly.

(c) "Employer" means any person employing or seeking to employ any employee.

(d) "Employee" means any person performing or seeking to perform work or service of any kind for compensation.

(e) "Labor Agent" means any person in this State who, for a fee, offers or attempts to procure, or procures employment for employees, or without a fee offers or attempts to procure, or procures employment for common or agricultural workers; or any person who for a fee attempts to procure, or procures employees for an employer, or without a fee offers or attempts to procure common or agricultural workers for employers, or any person, regardless whether a fee is received or due, offers or attempts to supply or supplies the services of common or agricultural workers to any person.

(f) "Director" shall mean the Director of Division of Labor and Employment Agencies.

(g) "Deputy or Inspector" shall mean any person who is duly authorized by the Director to act in that capacity.

Art. 7.032. Exceptions

The provisions of this part shall not apply to persons who charge a fee of not more than Two Dollars (\$2) for registration only for procuring employment for school teachers; provisions of this part shall not apply to any employment agency established and operated by this State, the United States Government or any municipal government of this State; the provisions of this part shall not apply to any person who may operate a labor bureau or employment office in conjunction with his own business for the sole and exclusive purpose of employing help for his own use within this State, nor to any common carrier operating in this State who may operate an employment office in conjunction with his own business for the exclusive purpose of employment help for his own use within or without this State, provided, that no fee or other charge or reduction is exacted from the salary or wages of the workers for employment given. If a fee or charge of any kind, either directly or indirectly, is exacted of the worker, then said employer is deemed an employment or labor agent and is subject to the provisions of this part. The provisions of this part shall not apply to farmers or stock raisers acting jointly or severally in securing laborers for their own use in this State where no fee is charged or collected, either directly or indirectly, for employment given; the provisions of this part shall not apply to any person, corporation, or charitable association chartered under the laws of Texas for the purpose of conducting a free employment bureau or agency; nor to any veterans' organization or labor union; nor to any nurses' organizations operated not for profit, to be conducted by recognized professional registered nurses for the enrollment of its professional members only for the purpose of providing professional service to the public.

Art. 7.033. Application and bond.

Application and Bond for a Labor Agency license shall be executed on blank forms prescribed and furnished by the Director. Application for license to act as a Labor Agent may be made in person or by mail to the Director upon blank application form which shall be verified by the applicant. Such application shall also be accompanied by affidavits of at least five (5) creditable citizens who have resided in the county in which said applicant resides for at least three (3) years prior thereto, to the effect that applicant or applicants are persons of good moral character.

Such application shall be examined by the Director; if he finds that the same complies with the law and that the applicant is entitled to a license, then he shall issue a license in the name and on behalf of the Commission to the applicant for each County for which application is made, and shall deliver such license to the applicant upon the payment of a license fee of One Hundred and Fifty Dollars (\$150) for each county in which the labor agent intends to operate. Each person making application for a labor agency license and before such license is issued, shall make and file with the Director good and sufficient bond executed by the applicant with good and sufficient surety in the penal sum of Five Thousand Dollars (\$5,000), payable to the State of Texas, for each county in which the agent intends to operate; said bond shall be conditioned that the obligor will not violate any of the duties, terms, conditions and requirements of this part, and that the agent will not make any false representation or statement to any person soliciting any assistance from him for employees or employment. Each license issued by the Director shall be good for a period of one (1) year from the date of issuance.

Art. 7.034. Fees

Where a fee is charged for obtaining employment such fee in no event shall exceed the sum of Three Dollars (\$3), which may be collected from the applicant only after employment has been obtained and accepted by the applicant.

Art. 7.035. Occupation Tax

In addition to the license fee and bond required in Art. 7.033 of this part, every labor agent hiring, enticing, or soliciting common or agricultural workers in this State to be employed beyond the limits of this State, shall pay an annual State occupation tax of Six Hundred Dollars (\$600), and in each county where said labor agent operates, an annual occupation tax on a population basis, according to the last preceding Federal Census as follows:

In counties under one hundred thousand (100,000) population, the sum of One Hundred Dollars (\$100);

In counties having a population from one hundred thousand (100,000) to two hundred thousand (200,000) inclusive, the sum of Two Hundred Dollars (\$200);

And in counties over two hundred thousand (200,000) population, the sum of Three Hundred Dollars (\$300).

This tax shall be paid to the Director at the time such license or licenses are issued, and shall be forwarded by him to the proper county tax collection agencies. Such tax shall be good for the same period of time and run concurrent with the labor agency license. No other license fee or tax, whether general or local than as herein provided, shall be assessed against or levied upon any labor agency licensed under this part.

Art. 7.036. Cancellation of License

The Director shall have the authority, and it shall be his duty, to cancel the license of any employment agent when it shall appear to his satisfaction, upon hearing, that such agent has been convicted in a State or Federal Court of an offense which under the laws of this State is a felony, or for any offense involving moral turpitude, or that the agent had obtained his license illegally or fraudulently or was guilty of fraud, false swearing, or deception in securing his license, or has violated any provision of this part.

The Director shall not cancel the license of any agent until complaint in writing, made by a credible person, shall be filed with

him, specifying in general terms the grounds of the proposed cancellation, and a full and fair hearing given to him thereon. Upon the filing of such complaint, the Director shall fix a time and place, reasonably accessible to the agent complained against for the hearing of said complaint. The Director shall notify the agent so complained against of the time and place fixed for said hearing by a registered letter addressed to him at his post-office address as the same appears upon his application for license, accompanied by an exact copy of the complaint against him; and mailing of such notice and copy shall be sufficient and conclusive evidence of proper service of the procedure upon the agent so complained against. The agent so complained against shall have at least ten (10) days after the date said notice is mailed, exclusive of the day of mailing and the day of hearing, before hearing upon said complaint shall be had, and shall have the right to file answer, introduce evidence and to be heard both in person and by counsel. The Director shall have the power to summon and compel the attendance of witnesses before him to testify in relation to any such complaint, and may require the production of any book, paper or document deemed pertinent thereto. Said Director shall also have the power to provide for the taking of depositions of witnesses and evidence may be heard either from witnesses present testifying orally, or by deposition taken under such rules, and in such fair and impartial manner as the Director may prescribe. Said hearing shall be had before the Director and shall be conducted in a fair and orderly manner, and in accordance with rules of procedure to be adopted by the Director.

At the conclusion of the hearing the Director shall enter his findings and judgment in writing and the same shall be recorded by him in a permanent record to be kept by him, and a copy thereof furnished to the agent complained against. Any agent whose license shall be cancelled by the Director may, within thirty (30) days after the cancellation thereof, and not thereafter, have his right of action for reinstatement against the Director in the

District Court of Travis County. If the agent whose license has been cancelled by the Director shall, within ten (10) days after receiving information of such cancellation, give notice to the Director in writing of his intention to file such suit, the action of the Director in cancelling the said license shall be suspended for a period of thirty (30) days, but unless such suit shall be filed within said time, the action of the Director shall be final. If suit shall be filed against the Director to reinstate said license within said time, the action of the Director shall remain suspended until the validity of the license in question shall be adjusted by the Court in said suit. In such suits the burden shall be upon the agent to show good cause for reinstatement of his license.

Art. 7.037. Out-of-State Agencies

No foreign labor agent, labor bureau or labor agency or other person or corporation resident of or domiciled in any other State or territory of the United States shall enter this State and attempt to hire, entice, or solicit or take from this State any common or agricultural workers, singly or in groups, for any purpose without first applying to the Director for a license as an employment or labor agent as provided by this part.

Art. 7.038. Reports to Director

Any labor agent hiring, enticing, or soliciting common or agricultural workers in this State to be employed beyond the limits of this State, shall make monthly reports to the Director on the first day of each and every month covering the preceding month, correctly showing the name and address of every representative, subagent, contractor, solicitor, recruiter engaged in any part of the work of that agency connected with the hiring, enticing, or soliciting of common or agricultural workers in this State to be employed beyond the limits of this State, and correctly showing:

(a) The name, age, sex, race, and address of each person solicited to be employed beyond the limits of this State.

(b) The name and address of the employer of every such person.

(c) The kind of work every such person is employed to do.

(d) The place where every such person is to be employed.

(e) The term of employment of every such person.

(f) The wages to be paid to every such person for his work, and

(g) Whether or not transportation is to be furnished, arranged for, or paid for any such common laborer or agricultural worker either leaving or returning to this State.

The said Director shall have the authority and it shall be his duty to cancel the license of every agent who fails to make and file such monthly reports on or before the tenth day of each month, respectively, for the preceding month in accordance with the cancellation procedure provided in this part.

Art. 7.039. Certain acts prohibited

No labor agent shall:

(a) Knowingly admit, or allow to remain on the premises of such agent any prostitute, gambler, intoxicated person or any person of bad character.

(b) Advertise his agency by means of cards, circulars, signs or in newspapers or other publications, unless all such advertisements shall set forth the name of the agent and the address of his labor office; nor shall any such licensed person use any letterheads or blanks not containing the name of such labor agent and the address of his labor office.

(c) Publish or cause to be published any false or misleading advertisement or notice relating to his labor agency.

(d) Give any false information or make any false representation concerning employment to any applicant for employment.

(e) Send out an applicant for employment to any prospective employer without first having obtained a bona fide written order from such prospective employer.

(f) Furnish any female for immoral purposes; or send, or cause to be sent any female to enter as servant, inmate, or for

any purpose whatsoever, any place of bad repute, house of ill fame, or assignation house, or any house or place of amusement kept for immoral purposes, the character of which such labor agent could have ascertained by reasonable diligence.

(g) Furnish employment to any child in violation of the statutes regulating the employment of children or the compulsory attendance at school.

(h) Divide or offer to divide, directly or indirectly, any fee charged or received with any person who secures workers through such agent, or to whom workers are referred by such agent.

(i) No labor agent shall send any person to a prospective employer who is conducting a "lockout" against all or part of his employees; or whose employees, or a part of them are out on a strike, without first apprising said person of the existence of said "lockout" or strike.

Art. 7.0310. License as evidence

Any application made by an employment or labor agent for a license, or a certified copy thereof under the hand and seal of the Commission, shall be received as evidence in any Court in this State without the necessity of proving the execution thereof.

Art. 7.0311. Disposition of license fees collected

License fees collected under the provisions of this Act shall be deposited by the Director in the State Treasury to the credit of the General Revenue Fund.

Art. 7.0312. To display license.

Every Labor Agent shall keep conspicuously posted in his office the license issued to him under this part.

Art. 7.0313. Doing business without license

Any person acting as a Labor Agent, as defined by this Act, without having first filed with the Director an application for license as Labor Agent as provided by this part, and/or without having first paid all State and county occupation taxes, and annual license fee as provided by law, or without having first

secured a State license as provided, shall be guilty of a misdemeanor and upon conviction shall be punished by fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200).

Art. 7.0314. Authority of the Director

The Director and his deputies or inspectors are hereby empowered to enforce the provisions of this part, and shall have the authority of peace officers in making arrests of any person or persons who violate, in their presence, any of the provisions of this part; and when such arrest has been made, the Director or his duly appointed deputies or inspectors may enter any employment office at any time when such employment office is open for business and inspect the registers and all other records of whatsoever kind and character of such employment or labor agent for the purpose of ascertaining whether the provisions of this law are being violated, and the refusal of any employment or labor agent to permit such inspection shall be a violation of this part, and be sufficient reason for the Director to cancel the license of such agent in accordance with the provision of Art. 7.036 of this part.

Art. 7.0315. Punishment

Unless otherwise provided for in this part, any employment or labor agent who violates any provision of this part shall be fined not less than Twenty-five Dollars (\$25), nor more than Two Hundred Dollars (\$200).

Part B -- Private Employment Agency Law

Art. 7.041. Definitions

When used in this Part:

(a) The term "person" means an individual, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver.

(b) "Fee" means anything of value including money or other valuable consideration or services or the promise of any of the foregoing received by an employment agency from or on behalf of any person seeking employment or employees in payment for any

service, directly or indirectly.

(c) "Employer" means any person employing or seeking to employ any employee.

(d) "Employee" means any person performing or seeking to perform work or service of any kind for hire.

(e) "Private Employment Agent" means any person in this State who for a fee or without a fee offers or attempts to procure employment for employees or procure or attempts to procure employees for employers except employees as common laborers or agricultural workers.

(f) "Director" shall mean the Director of Division of Labor and Employment Agencies.

(g) "Deputy or Inspector" shall mean any person who is duly authorized by the Director to act in that capacity.

(h) "Agent" shall mean a Private Employment Agent as defined by this part.

Art. 7.042. Exceptions

The provisions of this part shall not apply to agencies engaged solely in the procurement of employment for public school teachers and administrators; the provisions of this part shall not apply to any employment agency established and operated by this State, the United States Government, or any municipal government of this State; the provisions of this part shall not apply to any person who may operate a Labor Bureau or employment office in conjunction with his own business for the sole and exclusive purpose of employing help for his own use within or without this State, nor to any common carrier operating in this State who may operate an employment office in conjunction with his own business for the exclusive purpose of employing help for his own use within or without this State, provided that no fee or other charge or reduction is exacted from the salary or wages of the worker for employment given. If a fee or charge of any kind, either directly or indirectly is exacted of a worker, then said employer is deemed a Private Employment Agent and is subject to the provisions of this part. The provisions of this part shall not apply to farmers

or stock raisers acting jointly or severally in securing laborers for their own use in this State where no fee is charged or collected, either directly or indirectly, for employment given; the provisions of this part shall not apply to persons acting for members of their own family. The provisions of this part shall not apply to any person, corporation, or charitable association chartered under the Laws of Texas for the purpose of conducting a free employment bureau or agency, nor to any veterans organization or labor union; nor to any nurses' organization operated without profit when conducted by registered nurses for the enrollment of its professional members only for the purpose of providing professional service to the public; the provisions of this part shall not apply to a labor agent engaged exclusively in the business of procuring common laborers or agricultural workers for employers or any person engaged exclusively in the business of procuring or attempting to procure jobs for common laborers or agricultural workers.

Art. 7.043. Application and license

Application for a Private Employment Agency license shall be executed on blank forms prescribed and furnished by the Director. Application for license to act as a Private Employment Agency may be made in person or by mail to the Director upon blank application form which shall be verified by the applicant. Where the application is made by a firm, partnership, or an association of persons, it must be verified by each person for whose benefit the application is made, and such application shall also be accompanied by affidavits of at least five (5) creditable citizens who have resided in the county in which such applicant desires to conduct the business of a Private Employment Agency, for at least three (3) years, to the effect that the applicant or applicants are residents of the county in which such person desires to become a Private Employment Agent and that such person or persons are of good moral character. The Director may require additional evidence of the moral character of applicants and make such additional investigation of any person except those of good moral character. Under no condition shall a license be issued to any person or persons, if anyone financially interested in or has a managerial control of the proposed Private Employment Agency has ever been convicted of a

felony. Such applications shall be examined by the Director and if he finds that the same complies with the law and that the applicant is entitled to a license, then he shall issue a license in the name and on behalf of the Commission, to the applicant and shall deliver such license to the applicant upon the payment of the license fee of One Hundred and Fifty Dollars (\$150). There shall be only one type of license issued under the provisions of this part, which license shall be designaged as a Private Employment Agency license, which will permit the licensee to act as a Private Employment Agent, maintaining only one office under said license.

Each license issued by the Director shall be good for a period of one year from the date of issuance. No occupation tax shall be levied by the State or any political subdivisions thereof in connection with the operation of a Private Employment Agency.

Art. 7.044. Bond

Each person making application for an employment agency license and before such license is issued, shall make and file with the Director a good and sufficient bond executed by the applicant with good and sufficient surety in the penal sum of Five Thousand Dollars (\$5,000), payable to the State of Texas; said bond shall be conditioned that the obligor will not violate any of the duties, terms, conditions, and requirements of this part, and that the principal, his agents or representatives will not make any false representation or statement to any person soliciting assistance from him for employees or employment, or solicited by him to accept employment.

Said bond is to further recite that any person injured or aggrieved by any false or fraudulent statement of such agent, his subagents or representatives, or any violation of any provisions of this part thereof by such agent, subagent or representative, shall be entitled to bring suit thereon.

Art. 7.045. Suits on bond

Any person injured or aggrieved by any action, conduct,

false representation or false statement of any such employment agent, his subagents or representatives may bring suit for damages against such agent on said bond in any county where such action, conduct, false representation or false statement was made in any court of competent jurisdiction, without the necessity of making the State a party thereto. Where the bond has become impaired by recoveries thereon to the extent of fifty per cent (50%) of the penal sum named therein, the Director may, by a notice in writing, demand the execution of a new bond, which if not executed and submitted to the Director within twenty (20) days from his approval, such failure to execute a new bond shall ipso facto forfeit and cancel the license issued to the principal named in said bond.

Art. 7.046. Agents to keep record

Every licensed Private Employment Agent shall keep and maintain an office in this State at which a complete record of business transacted, as required by this part, shall be kept, such records may be inspected during normal business hours by the Director, his deputies or inspectors when said Director, his deputies or inspectors have been presented with a bona fide complaint against said agency and upon demand of the Director, his deputies or inspectors, the agency so complained of must furnish records and any other evidence required with respect to such complaint. Failure on the part of any agent or agency to furnish such information as required by this Article shall be sufficient grounds for the Director to cancel the license of said agent and he shall have the authority and it shall be his duty to do so.

Art. 7.047. Cancellation of license.

The Director shall have the authority, and it shall be his duty to cancel the license of any Private Employment Agent when it shall appear to his satisfaction, upon hearing, that said agent has been convicted in a State or Federal Court of an offense which under the laws of this State is a felony, or for any offense involving moral turpitude, or that said agent had obtained his license illegally or fraudulently or was guilty of fraud, false

swearing, or deception in securing his license, or has violated any provisions of this part.

The Director shall not cancel the license of any agent until complaint in writing, made by a credible person, shall be filed with him, specifying the ground or grounds of the proposed cancellation, and a full and fair hearing given to him thereon. Upon the filing of such complaint the Director shall fix a time and place, reasonably accessible to the agent complained against, for the hearing of said complaint. The Director shall notify the agent so complained against of the time and place fixed for said hearing by a registered letter addressed to him at his post-office address as the same appears upon his application for license, accompanied by an exact copy of the complaint against him; and mailing of such notice and copy shall be sufficient and conclusive evidence of proper service of the procedure upon the agent so complained against. The agent so complained against shall have at least ten (10) days after the date said notice is mailed, exclusive of the day of mailing and the day of hearing, before hearing upon said complaint shall be had, and shall have the right to file answer, introduce evidence, examine witnesses, and to be heard both in person and by counsel. The Director shall have the power to summon and compel the attendance of witnesses before him to testify in relation to any such complaint and may require the production of any book, paper or document deemed pertinent thereto. Said Director shall also have the power to provide for the taking of depositions of witnesses and evidence may be heard either from witnesses present and testifying orally, or by deposition taken under rules of existing civil court procedure and in such fair and impartial manner as the Director may prescribe. Said hearing shall be had before the Director and shall be conducted in a fair and orderly manner, and in accordance with rules of procedure to be adopted by the Director, not in conflict with the rules of civil procedure.

At the conclusion of the hearing the Director shall enter his findings and judgment in writing and the same shall be

recorded by him in a permanent record to be kept by him, and a copy thereof furnished to the agent complained against. Any agent whose license shall be cancelled by the Director, may, within thirty (30) days, after the cancellation thereof, and not thereafter, appeal such decision to the District Court of Travis County, and the trial shall be de novo and tried as any other civil action. If the agent whose license has been cancelled by the Director shall, within ten (10) days after receiving information of such cancellation, give notice to the Director in writing of his intention to appeal said decision, the action of the Director in cancelling the said license shall be suspended for a period of thirty (30) days, but unless such appeal shall be filed within said time, the action of the Director shall be final. If an appeal of the decision of the Director shall be filed within said time, the action of the Director shall remain suspended until the validity of the license in question shall be adjudicated by the court in said appeal.

Any person whose license is finally suspended according to the provisions of this Article, shall be prohibited from obtaining another Private Employment Agency license for a period of five (5) years.

Art. 7.048. Fees

Private Employment Agents or Agencies as defined by this part and who are engaged in the business of attempting to procure employment for employees or procures or attempts to procure employees for employers in skilled, professional, or clerical positions may charge, with the written consent of the applicant, a fee, not to exceed forty per cent (40%) of the first month's salary, which may be collected from the applicant only after employment has been obtained and accepted by the applicant.

Art. 7.049. Receipt forms prescribed

A receipt shall be given by the employment agent to all applicants for all fees collected from such applicants. The form of such receipt shall be prescribed by the Director and shall contain the name of the applicant, the amount of the fee paid, the

date, the character of the work or the position secured, the name of the employer, together with his post-office address and the location of the work applicant is to perform.

Art. 7.0410. Certain acts prohibited.

No Private Employment Agent shall:

(a) Knowingly admit, or allow to remain on the premises of such agent any prostitute, gambler, intoxicated person or any person of bad character.

(b) Advertise his agency by means of cards, circulars, signs or in newspapers, or other publication, unless all such advertisements shall set forth the name and address of such agency; nor shall any such licensed person use any letterheads or blanks not containing the name and address of such agency.

(c) Publish or cause to be published any false or misleading advertisement or notice relating to his employment agency.

(d) Give any false information or make any false representation concerning employment to any applicant for employment.

(e) Send out an applicant for employment to any prospective employer without first having obtained a bona fide order from such prospective employer.

(f) Furnish any female for immoral purposes; or send, or cause to be sent any female to enter as servant, inmate, or for any purpose whatsoever, any place of bad repute, house of ill fame, or assignation houses, or any house or place of amusement kept for immoral purposes, the character of which such employment agent could have ascertained by reasonable diligence.

(g) Furnish employment to any child in violation of the statutes regulating the employment of children or the compulsory attendance at school.

(h) Divide or offer to divide, directly or indirectly, any fee charged or received with any person who secures workers through such agent, or to whom workers are referred by such agent.

(i) No employment agent shall send any person to a

prospective employer who is conducting a "lockout" against all or part of his employees or whose employees, or a part of them are out on a strike, without first apprising said person of the existence of said "lockout" or strike.

Art. 7.0411. Untruth by employer or applicant

No employer seeking employees, and no person seeking employment, shall knowingly make any false statement or conceal any material facts for the purpose of obtaining employees, or employment, by or through any Private Employment Agents.

Art. 7.0412. To display license

Every Private Employment Agent shall keep conspicuously posted in his office the license issued to him under this law.

Art. 7.0413. Penalty for doing business without license

Whoever acts as a Private Employment Agent or conducts a Private Employment Office in any county of this State without having first filed with the Director an application for license as a Private Employment Agent as provided by this part, and/or without having first secured a State license as provided by this part, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) and not exceeding Five Hundred Dollars (\$500), or by imprisonment in the county jail for not exceeding six (6) months, or by both such fine and imprisonment.

Art. 7.0414. Authority of the Director

The Director and his deputies or inspectors are hereby empowered to enforce the provisions of this part and shall have the authority of peace officers in making arrests of any person or persons who violate, in their presence, any of the provisions of this part; the Director or his duly appointed deputies or inspectors may enter any employment office at any time when such employment office is open for business and inspect the registers and all other records of whatsoever kind and character of such Private Employment Agent for the purpose of ascertaining

whether the provisions of this law are being violated, and the refusal of any Private Employment Agent to permit such inspection shall be a violation of this part, and be sufficient reason for the Director to cancel the license of such agent in accordance with the provisions of Art. 7.047.

It is further provided that any information obtained by the Director, or his duly appointed deputies or inspectors, from any Private Employment Agent's records of whatsoever kind and character are confidential and are not to be divulged by sign, word or in writing and is to be used only in carrying out their duties as enumerated in this Act.

Art. 7.0415. Injunction

Any person who shall act as a Private Employment Agent, or who shall conduct an employment office without first procuring a license as required and provided for in this part may be enjoined from unlawfully pursuing such business or occupation, and the Attorney General shall bring suit for such purpose in the name of the State of Texas in Travis County, and the district or county attorney of any county wherein such person engages in such business or conducts an employment office in violation of this Act is hereby authorized to maintain in the proper court of said county a suit in the name of the State of Texas to enjoin and prevent such person from unlawfully pursuing such occupation. In all such cases it shall not be necessary for the attorney bringing the suit to verify the pleadings or for the State to execute any bond as a condition precedent to the issuing of any injunction or restraining order hereunder.

Art. 7.0416. License as evidence

Any application may by a Private Employment Agent for a license, or a certified copy thereof under the hand and seal of the Commission, shall be received as evidence in any court in this State without the necessity of providing the execution thereof.

Art. 7.0417. Disposition of license fees collected

The Director shall deposit all moneys received by him

from license fees under the provisions of this Act in the State Treasury to the credit of the General Revenue Fund.

Part C -- Non-Profit Labor Corporation

Art. 7.051. Investigation and recommendation of application for charter

Whenever the Secretary of State of the State of Texas, pursuant to Art. 2.01 of the Texas Non-Profit Corporation Act, shall refer to the Commission, as successor to the "Labor Commissioner," notification that an application has been made to him to issue articles of incorporation to organize laborers, working men or wage earners, or to grant amendment to charter of articles of incorporation of a corporation previously created to organize laborers, working men or wage earners, or that may may be created hereafter under the Texas Non-Profit Corporation Act to organize laborers, working men or wage earners, and upon request that an investigation and recommendation be made concerning such application, the Director shall forthwith, in accordance with such rules and regulations as he may promulgate and issue providing for fair notice and hearing to the interested parties, make an investigation and recommendation thereon to the Secretary of State; provided that no investigation or recommendation shall be required or made of applications from farmers for articles of incorporation.

Art. 7.052. Judicial review

Any person or organization aggrieved by an adverse investigation or recommendation of the Director may within thirty (30) days after date of issuance of said recommendation, and not thereafter, appeal such decision to the District Court of Travis County, and the trial thereon shall be de novo and tried as any other civil action. If the person or organization who is aggrieved shall, within ten (10) days after date of issuance of said recommendation, give notice to the Director and to the Secretary of State in writing of his intention to appeal said recommendation, action by the Secretary of State on said recommendation shall be stayed and suspended for a period of thirty (30)

days, but unless such appeal shall be filed within said time, the action of the Director shall be final and the Secretary of State is authorized to act in accordance therewith. If an appeal to the recommendation of the Director shall be filed within said time, action by the Secretary of State thereon shall remain stayed and suspended until the validity of the recommendation shall be adjudicated by the court on said appeal.

Section 2. That Chapter 2 of Title 83 "LABOR" of the Revised Civil Statutes of Texas, as amended, and all Articles contained in said Chapter, as said Articles are amended, be and the same are hereby designated "Chapter Eight - Labor Organizations" and all of said Articles contained in said Chapter, save and except Acts 1955, 54th Leg., p. 1029, ch. 387 (Vernon's Art. 5154g) are hereby adopted and re-enacted without change in content and designed as articles corresponding with the system of division of the Texas Labor Code, as follows:

Art. 8.01 -- Acts 1899, p. 262 (Vernon's A.T.S., Article 5152)

Art. 8.02 -- Acts 1899, p. 262 (Vernon's A.T.S., Article 5153)

Art. 8.03 -- Acts 1899, p. 262; Acts 1947, 50th Leg., p. 530, ch. 310, §2 (Vernon's A.T.S., Article 5154)

Art. 8.04 -- Acts 1943, 48th Leg., p. 180, ch. 104 (Vernon's A.T.S., Article 5154a)

Art. 8.05 -- Acts 1947, 50th Leg., p. 228, ch. 132 (Vernon's A.T.S., Article 5154b)

Art. 8.06 -- Acts 1947, 50th Leg., p. 231, ch. 135 (Vernon's A.T.S., Article 5154c)

Art. 8.07 -- Acts 1947, 50th Leg., p. 239, ch. 138 (Vernon's A.T.S., Article 5154d)

Art. 8.08 -- Acts 1947, 50th Leg., p. 487, ch. 284 §1 (Vernon's A.T.S., Article 5154e)

Art. 8.09 -- Acts 1947, 50th Leg., p. 779, ch. 387 (Vernon's A.T.S., Article 5154f)

Section 3. That Chapter 4 of Title 83 "LABOR" of the Revised Civil Statutes of Texas, as amended, and the Article contained therein, be and the same is hereby designated Chapter Nine and the Article contained therein is hereby adopted and re-enacted without change in content and designated as "Article

9.01. Bond for wages" to correspond with the system of division of the Texas Labor Code.

Section 4. That Chapter 10 of Title 83 "LABOR" of the Revised Civil Statutes of Texas, as amended, and the articles contained therein, as said articles are amended, and which are not by Section 1 of this Act otherwise codified, be and the same are hereby adopted and re-enacted without change in content and designated as "Chapter Ten -- Industrial Commission" and the said articles are designated as articles corresponding with the system of division of the Texas Labor Code, as follows:

Art. 10.01 -- Acts 1959, 56th Leg., p. 702, ch. 322, §1 (Vernon's A.T.S., Article 5183)

Art. 10.02 -- Acts 1957, 55th Leg., p. 782, ch. 319 §1, as amended by Acts 1959, 56th Leg., p. 431, ch. 193, §5 (Vernon's A.T.S., Article 5190½)

Section 5. That Chapter 14 of Title 83 "LABOR" of the Revised Civil Statutes of Texas, as amended, and all Articles contained therein, as said Articles are amended, be and the same are hereby adopted and re-enacted without change in content and designated as "Chapter Eleven -- Unemployment Compensation" and the Articles contained therein are hereby adopted and re-enacted without change in content and designated as articles corresponding with the system of division of the Texas Labor Code, as follows:

Art. 11.01 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §3 as last amended by Acts 1961, 57th Leg., 1st C.S., p. 43, ch. 18 §§1, 2 and 3 (Vernon's A.T.S., Article 5221b-1)

Art. 11.02 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482 §4 as last amended by Acts 1955, 54th Leg., p. 1310, ch. 517, §2 (Vernon's A.T.S., Article 5221b-2)

Art. 11.03 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482 §5 as last amended by Acts 1961, 57th Leg., 1st C.S., p. 43, ch. 18 §5 (Vernon's A.T.S., Article 5221b-3)

Art. 11.04 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §6 as last amended by Acts 1957, 55th Leg., p. 1350, ch. 460, §3 (Vernon's A.T.S., Article 5221b-4)

Art. 11.05 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §6-A, added Acts 1943, 48th Leg., p. 585, ch. 343 §4 (Vernon's A.T.S., Article 5221b-4a)

- Art. 11.06 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §7 as last amended by Acts 1961, 57th Leg., 1st C.S., p. 43, ch. 18, §6 and Acts 1961, 57th Leg., p. 1129, ch. 513, §1 (Vernon's A.T.S., Article 5221b-5)
- Art. 11.07 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482 §8, as last amended Acts 1957, 55th Leg., p. 1350, ch. 460, §5 (Vernon's A.T.S., Article 5221b-6)
- Art. 11.08 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482 §9, as last amended by Acts 1957, 55th Leg., p. 1350, ch. 460, §6 (Vernon's A.T.S. 5221b-7)
- Art. 11.09 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §9a added Acts 1939, 46th Leg., p. 459, §2 (Vernon's A.T.S. 5221b-7a)
- Art. 11.10 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §9-A added Acts 1941, 47th Leg., p. 261, ch. 178, §2 (Vernon's A.T.S., Article 5221b-7b)
- Art. 11.11 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §10, as last amended by Acts 1955, 54th Leg., p. 399, ch. 116, §8 and Acts 1957, 55th Leg., p. 1350, ch. 460, §12 (Vernon's A.T.S., Article 5221b-9)
- Art. 11.12 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §11, as last amended by Acts 1955, 54th Leg., p. 399, ch. 116, §8 and Acts 1957, 55th Leg., p. 1350, ch. 460, §7 (Vernon's A.T.S., Article 5221b-9)
- Art. 11.13 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §11a, added Acts 1939, 46th Leg., p. 459, §3 (Vernon's A.T.S., Article 5221b-9a)
- Art. 11.14 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §11-B, added Acts 1941, 47th Leg., p. 261, ch. 178, §3, as last amended Acts 1955, 54th Leg., p. 399, ch. 116, §9 (Vernon's A.T.S., Article 5221b-9b)
- Art. 11.15 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §12; Acts 1937, 45th Leg., p. 121, ch. 67, §4 (Vernon's A.T.S., Article 5221b-10)
- Art. 11.16 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §13, as last amended by Acts 1949, 51st Leg., p. 283, ch. 148, §7 (Vernon's A.T.S., Article 5221b-11)
- Art. 11.17 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §14, as last amended by Acts 1955, 54th Leg., p. 399, ch. 116, §10 and Acts 1957, 55th Leg., p. 1350, ch. 460, §8 (Vernon's A.T.S., Article 5221b-12)
- Art. 11.18 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §15, as amended by Acts 1955, 54th Leg., p. 399, ch. 116, §11 (Vernon's A.T.S., Article 5221b-13)

- Art. 11.19 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §16 as last amended by Acts 1955, 54th Leg., p. 399, ch. 116, §12 and Acts 1961, 57th Leg., p. 905, ch. 403, §1 (Vernon's A.T.S., Article 5221b-14)
- Art. 11.20 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §17, as amended by Acts 1957, 55th Leg., p. 1350, ch. 460, §10 (Vernon's A.T.S., Article 5221b-15)
- Art. 11.21 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §17A, as added Acts 1937, 45th Leg., p. 121, ch. 67, §6 and amended Acts 1945, 49th Leg., p. 121, ch. 67, §6. (Vernon's A.T.S., Article 5221b-15a)
- Art. 11.22 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §18 (Vernon's A.T.S., Article 5221b-16)
- Art. 11.23 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §19, as last amended by Acts 1961, 57th Leg., p. 1129, ch. 513, §2 (Vernon's A.T.S., Article 5221b-17)
- Art. 11.24 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §19-b, added Acts 1939, 46th Leg., p. 436, §12 (Vernon's A.T.S., Article 5221b-17a)
- Art. 11.25 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §21 (Vernon's A.T.S., Article 5221b-19)
- Art. 11.26 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §22 (Vernon's A.T.S., Article 5221b-20)
- Art. 11.27 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §23 (Vernon's A.T.S., Article 5221b-21)
- Art. 11.28 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §24, (Vernon's A.T.S., Article 5221b-22)
- Art. 11.29 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §26, added Acts 1945, 49th Leg., p. 589, ch. 347, §8, as amended by Acts 1949, 51st Leg., p. 283, ch. 148, §9 (Vernon's A.T.S., Article 5221b-22a)
- Art. 11.30 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §27, added Acts 1945, 49th Leg., p. 589, ch. 347, §9 (Vernon's A.T.S., Article 5221b-22b)
- Art. 11.31 -- Acts 1936, 44th Leg., 3rd C.S., p. 1993, ch. 482, §28, added Acts 1947, 50th Leg., p. 766, ch. 379, §2 (Vernon's A.T.S., Article 5221b-22c)
- Art. 11.32 -- Acts 1941, 47th Leg., p. 1378, ch. 625, §2. (Vernon's A.T.S., Article 5221b-24)

Section 6. That Chapters 13 and 16 of Title 83 "LABOR" of the Revised Civil Statutes of Texas, as amended, and the Articles contained therein, as said articles are amended, and which are not by Section 1 of this Act otherwise codified, be and the same are

hereby adopted and re-enacted without change in content and designated as "Chapter Twelve -- Miscellaneous Provisions" and the said articles are designated as articles corresponding with the system of division of the Texas Labor Code, as follows:

Art. 12.01 -- Acts 1937, 45th Leg., p. 705, ch. 354
(Vernon's A.T.S., Art. 5159b)

Art. 12.02 -- Acts 1955, 54th Leg., p. 595, ch. 203
(Vernon's A.T.S., Art. 5159c)

Art. 12.03 -- Acts 1955, 54th Leg., p. 470, ch. 132
(Vernon's A.T.S., Art. 5221d)

Art. 12.04 -- Acts 1957, 55th Leg., p. 1255, ch. 417
(Vernon's A.T.S., Art. 5221e)

Section 7. That the following statutes and laws of this State are supplanted by the provisions of the Texas Labor Code and are hereby repealed: (to be added)

Section 8. Severability. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or application of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable, and the Legislature hereby states that it would have enacted such portions of the Act which can lawfully be given effect regardless of the possible invalidity of other provisions of the Act.

A BILL

TO BE ENTITLED

AN ACT providing for a "Texas Labor Code" by amending, revising, rearranging, modifying, superceding and supplementing existing laws now contained in Title 83 "Labor" of the Revised Civil Statutes of Texas, as amended, and certain specified provisions of the Penal Code of Texas; creating a Department of Labor and transferring to it duties and functions of the Bureau of Labor Statistics now provided by law, and providing further and additional duties and functions of the Department of Labor including a State Mediation Service, and a Labor Management Representation Election Service; re-enacting with amendments, Chapter 2, 4, 10, 13, 14 and 16 of said Title 83; repealing all laws in conflict, and providing severability.

FILED

JAN 17 1963

JAN 21 1963

READ 1st TIME
AND REFERRED TO COMMITTEE ON

State Affairs